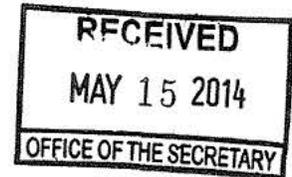


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-15671



In the Matter of

PATRICK G. ROONEY

Respondent.

DIVISION OF ENFORCEMENT'S REPLY MEMORANDUM  
IN SUPPORT OF ITS MOTION FOR SUMMARY DISPOSITION  
AGAINST RESPONDENT PATRICK G. ROONEY

Introduction

A United States district court enjoined Respondent Patrick G. Rooney from violating the antifraud provisions of the securities laws. Nevertheless, Respondent asks this court to enter no sanctions against him. He argues that the imposition of remedies for his violations of the securities laws "if any" should be left to the district court. (Resp. Br. at 1.) Respondent, however, does not cite a single follow-on administrative decision supporting his extraordinary request. There is a very good reason for that. There are none. As this court noted recently: "From 1995 to the present there have been over thirty follow-on administrative proceedings based on the antifraud injunctions in which the Commission issued opinions. All of the respondents were barred – thirty two unqualified bars and three bars with the right to reapply in five years." *Stefan H. Bengler*, Exchange Act Rel. No. 499, 2013 WL 3832276, at \*4 (July 25, 2013) (footnotes omitted). That is an overwhelming body of precedent working against Respondent.

In an effort to coax this tribunal into doing that which has never been done, Respondent inaccurately contends that this case represents an isolated event in an otherwise unblemished

career. He also rationalizes his fraudulent conduct by arguing that he believed the Commission previously investigated the misconduct alleged in the complaint and gave him a free pass. The truth, however, is much different than Respondent is willing to admit to the court. First, Respondent's background in the securities industry has not been incident free. Second, the Commission never approved the long-running fraud alleged in the injunctive complaint, which Respondent is now precluded from contesting. Indeed, Respondent's attempts to sweep his past under the rug and to justify his years of self-dealing and fraudulent misrepresentations only strengthen the need to bar him completely from the securities industry.

**A. Respondent's Career Has Not Been Incident Free.**

Respondent emphasizes repeatedly that the fraud he committed in this case is an isolated episode in an otherwise spotless career. He claims he "has been in the securities industry for 30 years without incident." (Resp. Br. at 2, Section II.A.) Later in his brief, he doubles down on this assertion, stating that this case represents "the first and only allegation of wrongdoing against Mr. Rooney" in his entire "thirty-year career in the securities industry." (*Id.* at 7.) Neither assertion is accurate. The Chicago Board Options Exchange, Inc. (CBOE) sanctioned Respondent multiple times for improper conduct, and the Commission previously brought an enforcement action against him for insider trading.

In 1999, CBOE fined Respondent and ordered him to pay disgorgement for violating CBOE rules. (Exhibit A.)<sup>1</sup> Respondent was sanctioned for exercising option contracts in violation of a trading halt that had been placed on those contracts. (*Id.* at 7-8.) Respondent and his

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<sup>1</sup> This is a matter of public record contained in the BrokerCheck database of the Financial Industry Regulatory Authority, Inc. The Division requests that the court take official notice of this exhibit pursuant to Commission Rule of Practice 323. *Timothy J. Geidel*, Exchange Act Rel. No. 567, 2014 WL 651952, at \*1 (Feb. 14, 2014) (taking official notice of records in BrokerCheck database).

company, Rooney Trading, Inc., “were jointly and severally fined \$5,000 and ordered to pay disgorgement in the amount of \$3,168.” (*Id.* at 8.)

That was not Respondent’s only incident with CBOE. A year earlier, CBOE ordered him to pay a \$5,000 fine and censured him for “fail[ing] to record transaction times and/or record accurate transaction times in a legible manner on numerous trade tickets.” (*Id.* at 8-9.) And before that, in 1997, Respondent and his company, Rooney Trading, Inc., were the subject of another regulatory action brought by CBOE, alleging similar misconduct. In that case, CBOE imposed fines on Respondent’s company and one of his clerks. (*Id.* at 9-10.)

There have been other allegations of misconduct against Respondent as well. In September 2000, the Commission filed an enforcement action against Respondent and his father, Patrick J. Rooney, in *SEC v. Adrian A. Alexander et al.*, Case No. 00-07290 (S.D.N.Y.), alleging that the Rooneys committed insider trading. (Exhibit B.)<sup>2</sup> The charges were eventually dismissed against Respondent; but, his father settled the charges (neither admitting nor denying them) and paid disgorgement and civil penalties of over \$1,000,000. (Exhibit C at Docket Nos. 5 and 129; Exhibit D at 2.)

Thus, Respondent’s claim that he has had a spotless career in the securities industry, without any prior “incidents” or “allegations” of wrongdoing, is simply not true. But even if he had an exemplary record up to this point (and he does not), his three-year journey of fraud in this case alone is compelling proof that he will pose a continued threat to investors if allowed to remain in the securities industry. *Montford & Co., Inc.*, Advisers Act Rel. No. 3829, 2014 WL 1744130, at \*19 (May 2, 2014) (Respondent’s “lack of previous securities laws violations does not outweigh

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<sup>2</sup> The Division requests that the court take official notice of Exhibits B through E pursuant to Commission Rule of Practice 323. *See Malaker v. Cincinnati Ins. Co.*, 09 C 1140, 2011 WL 1337095, at \*6 (N.D. Ill. Apr. 7, 2011) (district courts may take judicial notice of other court proceedings).

our concern that he will pose a continued threat to investors if permitted to remain in the industry.”); *Alfred Clay Ludlum, III*, Advisers Act Rel. No. 3628, 2013 WL 3479060, at \*5 (July 11, 2013) (“[W]e have previously found that ‘lack of disciplinary history is not a mitigating factor for purposes of sanctions because an associated person should not be rewarded for acting in accordance with his duties as a securities professional.’”) (Citation omitted).

**B. Respondent’s Fraudulent Conduct Was Recurrent Not Isolated.**

Moreover, the pertinent inquiry under *Steadman* is not limited to whether Respondent previously violated the securities laws. Rather, the focus is on “the isolated or recurrent nature of the infractions” in this case. See *Gary M Korman*, Exchange Act Rel. No. 59403, 2009 WL 367635, at \*6 (Feb. 13, 2009); *Ludlum*, 2013 WL 3479060, at \*5 (finding respondent’s actions “neither brief nor isolated” as he committed “multiple securities law violations, spanning at least three years and involving, among other things, the misuse of customer funds and misrepresentations to clients”); *Montford and Co.*, 2014 WL 1744130, at \*19 (adviser’s failure to disclose his conflict of interest was “recurrent, not isolated” as it took “place for over one and a half years, and did not cease until his clients learned of it from sources other than Respondents”). Here, Respondent’s fraudulent conduct spanned over three years and took the form of repeated self-dealing, affirmative misrepresentations to investors, failures to disclose conflicts of interest, and aiding and abetting his company’s violations of the securities laws. Respondent repeatedly breached his fiduciary duties to investors and, in the process, violated the antifraud provisions of the Investment Advisers Act of 1940 (complaint counts I, II, and III), the Securities Act of 1933 (counts IV and V), and the Securities Exchange Act of 1934 (counts VI and VII). He also aided and abetted the Solaris Opportunity Fund LP’s (Fund) violation of Section 13(d)(1) of the Exchange Act (count VIII) by failing to report the Fund’s substantial ownership interest in

Positron. (See Mem. In Support of Summary Disposition at 2-3 and Exhibit 1.) Respondent's deliberately fraudulent conduct in this case was "recurrent" and not "isolated." His record – both in this case and historically – weighs in favor (not against) of an industry bar.

**C. Respondent's Fraud Was Egregious And Committed With A High Degree of Scierter.**

Respondent cites an earlier Commission investigation (which stemmed from different events) in an attempt to dilute the allegations of the complaint, particularly the allegations about his own scierter. According to Respondent, his current fraudulent conduct purportedly came up during prior investigative testimony he provided to the Commission's Miami office in August 2006. Because the Miami office's investigation concluded without charges being brought against him, Respondent assumes that the Commission must have given its seal of approval to that conduct. Respondent's argument fails for at least two reasons – one legal and one factual.

First, Respondent is paying lip-service to the complaint. He is contesting the allegations in the current complaint by claiming that the earlier investigation led him to believe his conduct had somehow been approved by the Commission. He is, however, legally precluded from challenging the complaint's allegations in this proceeding, including the allegations that he deliberately committed fraud. *Melton*, 2003 WL 21729839, at \*8 ("we will not permit a respondent to contest the factual allegations of the injunctive complaint"); see also Mem. In Support of Summary Disposition at 2-3 and Exhibit 2. Those allegations conclusively demonstrate that Respondent's conduct was egregious and committed with a high degree of scierter. In summary, the complaint alleges that over several years, Respondent (i) hid from his investors the substantial conflict of interest caused by his dual role as manager of the Fund and Chairman of Positron (Compl. ¶¶ 11, 13, 14, 18, 29-33, 53, 62); (ii) misused the Fund's assets by funneling substantially all of those

assets into Positron (*id.* ¶¶ 34-45); (iii) hid from investors the fact that – due to the massive undisclosed investments in Positron – the Fund had radically departed from its trading strategy (*id.* ¶¶ 46-52, 62-69); and (d) lied to investors when – years into the fraud – he finally disclosed his conflict (*id.* ¶¶ 53-61). Why would Respondent commit such an egregious fraud on his investors and continuously breach his fiduciary duties to investors as an investment adviser? Money. While hiding his conflict and the Fund’s abandonment of its investment strategy, Respondent kept collecting fees from the very investors he defrauded. (*Id.* ¶ 25.) Moreover, by keeping Positron afloat with the Fund’s assets, Respondent continued to draw his salary and stock options from Positron. (*Id.* ¶¶ 32, 49.)

Respondent stipulated to committing a knowing fraud on his investors for over three years, all for his personal benefit. He cannot now claim that some prior investigation diminishes his culpability for the egregious fraud alleged in the complaint.

Second, Respondent’s suggestion that the August 2006 testimony he provided to the Miami office addressed the same misconduct alleged in the complaint is factually inaccurate. An inaccuracy made worse by his selective citation to the district court’s February 7, 2013 Order, which granted Respondent leave to amend his answer to add an affirmative defense. It is accurate that Respondent provided testimony on August 8, 2006 to the Commission’s Miami office, but that was in connection with a different investigation into different events. The primary misconduct alleged in the complaint here occurred *after* 2006. This point was made clear by the district court in a subsequent opinion, which Respondent wholly ignores.

After the district court allowed Respondent to amend his answer, he moved for partial judgment on the pleadings, arguing that certain of the Commission’s remedies were barred by the statute of limitations because the Miami office purportedly was on notice of Rooney’s misconduct

as a result of his August 2006 testimony. After full briefing by the parties, the district court held that that the Commission's remedies were not barred. On May 16, 2013, the district court ruled that Respondent's 2006 testimony did not cover the misconduct alleged in the Commission's complaint:

The complaint alleges that in 2007 and 2008, Rooney significantly increased the Solaris Fund's investment in Positron. By November 2008, the Solaris Fund owned sixty percent of Positron's shares. Rooney failed to file the proper notification with the SEC once the Solaris Fund became a majority shareholder in Positron. This escalation in the investment in Positron had not yet occurred at the time of Rooney's August 8, 2006 interview with the SEC. Neither had the false and misleading statements that Rooney sent to Solaris Fund investors on March 24, 2009. While Rooney contends that he viewed the SEC as having given him the "all clear" to proceed with his activities based on the SEC's March 9, 2009 letter, [the] letter did not address the escalation of Rooney's investments in Positron with Solaris Fund investor monies from 2007 through November 2008. The Court thus deems it inappropriate to apply the five year statute of limitations to the instant case given the conduct that clearly occurred within the limitations period.

(See Exhibit E at 2.) The district court held that the Commission's complaint alleged fraudulent conduct that occurred in 2007, 2008, and 2009 – after Respondent's August 2006 testimony.

#### **D. The Public Interest Demands That Respondent Be Barred.**

Respondent's attempt to whitewash his current misbehavior by reference to his August 2006 testimony actually hurts (not helps) his plea for unprecedented leniency. It is a distressing reminder that while Respondent agreed not to contest the allegations of the complaint and has been enjoined from violating the antifraud provisions of the securities laws, he still does not recognize the wrongfulness of his actions. By persistently rationalizing his dishonesty, Respondent highlights the danger that he will recidivate if he remains in the securities industry. *See SEC v. Metcalf*, No. 11-493, 2012 WL 5519358, at \*6 (S.D.N.Y. Nov. 13, 2012) ("One can never be certain whether a defendant will recidivate. However, this particular defendant's steadfast refusal

to acknowledge, except in the most technical sense, that he did anything wrong, or participated in misconduct, does not augur well in my mind. ... His attempt to whitewash his conduct heightens the need for a bar.”).

No amount of quibbling can alter the uncontestable fact that the district court imposed antifraud (and reporting) injunctions against Respondent. The Commission has previously recognized that the imposition of antifraud injunctions “has especially serious implications for the public interest.” *Melton*, 2003 WL 21729839, at \*9. “The public interest requires a severe sanction when a respondent’s past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business.” *Benger*, 2013 WL 3832276, at \*4; *Ludlum*, 2013 WL 3479060, at \*5 (“We have also consistently found that antifraud violations like those committed by [respondent] are ‘especially serious and [should be] subject to the severest sanctions.’”) (Citation omitted.). This case presents no exception. Respondent should be barred from the securities industry.

### **Conclusion**

For the reasons explained herein, the Division respectfully submits that Respondent should be barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Dated: May 14, 2014

Respectfully Submitted,

By: s/ Daniel J. Hayes  
Daniel J. Hayes  
Andrew Shoenthal  
Securities and Exchange Commission  
175 West Jackson Boulevard, Suite 900  
Chicago, Illinois 60604  
Telephone: 312.353.4947  
Fax: 312.353.7398

*Counsel for the Division of Enforcement*

# **EXHIBIT A**

BrokerCheck Report

PATRICK GUEARD ROONEY

CRD# 

## Dear Investor:

FINRA has generated the following BrokerCheck report for PATRICK GUEARD ROONEY. The information contained within this report has been provided by a FINRA member firm(s) and securities regulators as part of the securities industry's registration and licensing process and represents the most current information reported to the Central Registration Depository (CRD<sup>®</sup>) system.

FINRA regulates the securities markets for the ultimate benefit and protection of the investor. FINRA believes the general public should have access to information that will help them determine whether to conduct, or continue to conduct, business with a FINRA member or any of the member's associated persons. To that end, FINRA has adopted a public disclosure policy to make certain types of information available to you. Examples of information FINRA provides on currently registered individuals and individuals who were registered during the past two years include: actions by regulators, investment-related civil suits, customer disputes that contain allegations of sales practice violations against brokers, all felony charges and convictions, misdemeanor charges and convictions relating to securities violations, and financial events such as bankruptcies, compromises with creditors, judgments, and liens. FINRA also provides certain information on individuals whose registrations terminated more than two years ago.

The information in this report is not the only resource you should consult. FINRA recommends that you learn as much as possible about the individual broker or brokerage firm from other sources, such as professional references, local consumer and investment groups, or friends and family members who already have established investment business relationships.

FINRA BrokerCheck is governed by federal law, Securities and Exchange Commission (SEC) regulations and FINRA rules approved by the SEC. State disclosure programs are governed by state law, and may provide additional information on brokers and firms licensed by the state. Therefore, you should also consider requesting information from your state securities regulator. Refer to [www.nasaa.org](http://www.nasaa.org) for a complete list of state securities regulators.

Thank you for using FINRA BrokerCheck.



Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at [brokercheck.finra.org](http://brokercheck.finra.org)



For additional information about the contents of this report, please refer to the User Guidance or [www.finra.org/brokercheck](http://www.finra.org/brokercheck). It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. For more information about FINRA, visit [www.finra.org](http://www.finra.org).



**PATRICK GUEARD ROONEY**

CRD# [REDACTED]

This individual is no longer registered with FINRA. The individual's registration with FINRA was terminated prior to August 1999 when the enhanced CRD system was implemented. As a result, since the individual was not required to update their CRD record via the submission of a Form U4 to CRD since August 1999, BrokerCheck contains only limited information about this individual.

**Report Summary for this Broker**

The report summary provides an overview of the broker's professional background and conduct. The individual broker, a FINRA-registered firm(s), and/or securities regulator(s) have provided the information contained in this report as part of the securities industry's registration and licensing process.

**Broker Qualifications**

This broker is not currently registered with a FINRA firm.

This broker has passed:

- 0 Principal/Supervisory Exams
- 1 General Industry/Product Exams
- 0 State Securities Law Exams

**Registration History**

This broker was previously registered with the following FINRA member firms:

**ROONEY, PACE INC.**  
CRD# 6218  
NEW YORK NY  
10/22/1982 to 08/06/1985

For additional registration details as reported by the individual broker, refer to the Registration History Section of this report.

**Disclosure of Regulatory Events**

This section includes details regarding final regulatory events reported by or about this broker to CRD as part of the securities industry registration and licensing process.

Are there events disclosed about this broker? Yes

**The following type of disclosure was reported:**

Regulatory Event



## Broker Qualifications

### Industry Exams this Broker has Passed

This section includes all principal/supervisory, general product/industry, and/or state securities law exams that the broker has passed. Under certain, limited circumstances, a broker may receive a waiver of an exam requirement based on a combination of previous exams passed and qualifying work experience. Likewise, a new exam requirement may be grandfathered based on a broker's specific qualifying work experience. Information regarding instances of exam waivers or the grandfathering of an exam requirement are not included as part of the BrokerCheck report.

This individual has passed 0 principal/supervisory exams, 1 general industry/product exams, and 0 state securities law exam.

Exam Class	Exam Name	Category	Date
General Industry/Product Exams	General Securities Representative Examination	Series 7	10/16/1982

Additional information about the securities industry's qualifications and continuing education requirements, as well as the examinations administered by FINRA to brokers and other securities professionals can be found at <http://www.finra.org/Industry/Compliance/Registration/QualificationsExams/index.htm>.



## Registration History

### Previously Registered with the Following FINRA Firms

FINRA records show this broker previously held FINRA registrations with the following firms:

Registration Dates	Firm Name	CRD #	Branch Location
10/22/1982 to 08/06/1985	ROONEY, PACE INC.	6218	NEW YORK NY

## Disclosure of Regulatory Events

Disclosures in BrokerCheck reports come from different sources:

- **Self-disclosure:** Brokers are required to answer a series of questions on their application requesting securities industry registration (Form U4). For example, brokers are asked whether they have been involved in certain regulatory matters.
- **Regulator/Employer postings:** In addition, regulators and firms that have employed a broker also may contribute relevant information about such matters. All of this information is maintained in CRD.

**Certain Thresholds must be met before an event is reported to CRD; for example:**

- **A regulatory agency must meet established standards before initiating a regulatory action and/or issuing sanctions.** These standards typically include a reasonable basis for initiating the action after engaging in a fact-finding process.

## Disclosure Event Details

This report provides the information as it was reported to CRD by the individual broker, a member firm(s), and/or by securities industry regulators. Some of the specific data fields contained in the report may be blank if the information was not provided to CRD.



Possible multiple reporting sources  
– please note:

Disclosure event details may be reported by more than one source (i.e., regulator or firm). When this occurs, all versions of the reported event will appear in the firm's BrokerCheck report.

## Regulatory - Final

This section provides information regarding a final, regulatory action that was reported to CRD by the individual broker, a member firm and/or a securities regulator. The event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a self-regulatory organization, a federal regulator such as the SEC or the Commodity Futures Trading Commission (CFTC), or a foreign financial regulatory body) for a violation of investment-related rules or regulations.

### Disclosure 1 of 3 ~ Entry 1 of 1

Reporting Source: Regulator

**Details:**

1. Regulatory Action initiated by: CHICAGO BOARD OPTIONS EXCHANGE, INC.

2. Principal Sanction/Relief Sought: Civil and Administrative Penalt(ies) /Fine(s)

Other Sanctions/Relief Sought: DISGORGEMENT

3. Date Initiated: 04/29/1999

4. Docket/Case Number: 99-0023

5. Employing Firm when activity occurred which led to the regulatory action: ROONEY TRADING INC.

6. Principal Product Type: Index Option(s) Other Product Types:

7. Describe the allegations related to this regulatory action. (The information must fit within the space provided.): SEE SUMMARY

8. Current status? Final

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only. 10. How was matter resolved: Decision & Order of Offer of Settlement

11. Resolution Date: 06/10/1999

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

Monetary/Fine Amount: \$ 5,000.00

Disgorgement/Restitution

B. Other Sanctions Ordered: N/A

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against the subject, date paid and if any portion of penalty was waived:

PATRICK G. ROONEY, AN EXCHANGE MARKET-MAKER AND NOMINEE OF ROONEY TRADING, INC., AND ROONEY TRADING, INC., AN EXCHANGE MEMBER ORGANIZATION, WERE JOINTLY AND SEVERALLY FINED \$5,000 AND ORDERED TO PAY DISGORGEMENT IN THE AMOUNT OF \$3,168 FOR THE CONDUCT DESCRIBED BELOW.

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. Include the number of investors in the reporting jurisdiction, the total number of investors in the program, the amount invested in the reporting jurisdiction and the total amount invested. (The information must fit within the space provided.)

PATRICK G. ROONEY, AN EXCHANGE MARKET-MAKER AND NOMINEE OF ROONEY TRADING, INC., AND ROONEY TRADING, INC., AN EXCHANGE MEMBER ORGANIZATION, WERE JOINTLY AND SEVERALLY FINED \$5,000 AND ORDERED TO PAY DISGORGEMENT IN THE AMOUNT OF \$3,168 FOR THE FOLLOWING CONDUCT. PURSUANT TO REGULATORY CIRCULAR RG98-90 - S&P 100 INDEX AND AMERICAN STYLE FLEX INDEX OPTION EXERCISE PROCEDURES, "[E]XERCISES MAY NOT BE EFFECTED, NOR WILL 'EXERCISE ADVICES' BE ACCEPTED DURING A TRADING HALT. THESE RESTRICTIONS WILL REMAIN IN EFFECT UNTIL TRADING RESUMES. NOTWITHSTANDING THE ABOVE, AN EXERCISE MAY BE PROCESSED AND GIVEN EFFECT IN ACCORDANCE WITH AND SUBJECT TO OCC RULES IF IT CAN BE DOCUMENTED THAT THE DECISION TO EXERCISE WAS MADE DURING ALLOWABLE TIME FRAMES PRIOR TO THE DELAYED OPENING OR TRADING HALT. ACCEPTABLE DOCUMENTATION SHALL ORDINARILY BE LIMITED TO AN 'EXERCISE ADVICE' PREVIOUSLY TRANSMITTED VIA OCC'S CLEARING MANAGEMENT AND CONTROL SYSTEM ('C/MACS'), AN INTERNAL EXERCISE MEMORANDUM PREVIOUSLY PREPARED AND TIME-STAMPED BY A MEMBER, OR A MEMBER'S COPY OF AN 'EXERCISE ADVICE' PREVIOUSLY SUBMITTED TO THE EXCHANGE (COLLECTIVELY 'ACCEPTABLE DOCUMENTATION')." ON OCTOBER 15, 1998, AT 3:12 PM (CT), THE EXCHANGE DECLARED A TRADING HALT ("TRADING HALT") IN THE OEW CLASS OF OPTIONS CONTRACTS. ROONEY, ON BEHALF OF ROONEY TRADING DID NOT SUBMIT ACCEPTABLE DOCUMENTATION TO THE EXCHANGE INDICATING HIS INTENT TO EXERCISE 24 OEW OCT 520 PUT OPTION CONTRACTS PRIOR TO THE TRADING HALT. SUBSEQUENTLY, ROONEY, ON BEHALF OF ROONEY TRADING, EXERCISED 24 OEW OCT 520 PUT OPTION CONTRACTS AFTER THE EXCHANGE HAD DECLARED THE TRADING HALT IN THE OEW CLASS OF OPTIONS CONTRACTS. (CBOE RULE 11.1 AND RG 98-90.)

## Disclosure 2 of 3 ~ Entry 1 of 1

Reporting Source: Regulator

### Details:

1. Action Codes: FIN CEN
2. Action Date: 12/11/1998
3. Proviso: AC
4. Previously Reported: Yes



4a. Occurrence Number: Not Provided

5. Initiated by: CHICAGO BOARD OPTIONS EXCHANGE

6a. Docket/Case#: 98-0031 AND 98-0039 CONSOLIDATED

6b. Court Name/Location: Not Provided

7. Allegations: IT IS ALLEGED THAT ROONEY AND ROONEY TRADING VIOLATED EXCHANGE RULE 6.51(a) AND INTERPRETATION AND POLICY .01 THEREUNDER IN THAT ROONEY, ON BEHALF OF ROONEY TRADING, FAILED TO RECORD TRANSACTION TIMES AND/OR RECORD ACCURATE TRANSACTION TIMES IN A LEGIBLE MANNER ON NUMEROUS TRADE TICKETS.

8. Results: ROONEY TRADING, INC. AN EXCHANGE MEMBER ORGANIZATION, AND PATRICK ROONEY, A MARKET-MAKER AND NOMINEE OF ROONEY TRADING, WERE JOINTLY AND SEVERALLY FINED IN THE AMOUNT OF \$5,000 AND EACH CENSURED. ROONEY WAS ALSO ORDERED TO USE THE MARKET-MAKER HANDHELD TERMINAL ON A FULL-TIME PERMANENT BASIS ("FULL-TIME" IS DEFINED HEREIN AS ENTERING/EXECUTING AT LEAST 90% OF RESPONDENT'S MARKET-MAKER TRANSACTIONS ON THE HANDHELD TERMINAL).

9. Subject Wanted for Prosecution: No

10. Summary: DURING THE PERIOD FROM NOVEMBER 21, 1997 THROUGH JANUARY 20, 1998, AND FROM AUGUST 21, 1998 THROUGH SEPTEMBER 20, 1998, ROONEY, ON BEHALF OF ROONEY TRADING, FAILED TO RECORD TRANSACTION TIMES AND/OR RECORD ACCURATE TRANSACTION TIMES IN A LEGIBLE MANNER ON NUMEROUS TRADE TICKETS. (CHICAGO BOARD OPTIONS EXCHANGE RULE 6.51(a).)

### Disclosure 3 of 3 ~ Entry 1 of 1

Reporting Source: Regulator

#### Details:

1. Action Codes: CAF OTH

2. Action Date: 4/09/97

3. Proviso: AC

4. Previously Reported: No

4a. Occurrence Number: Not Provided

5. Initiated by: CHICAGO BOARD OPTIONS EXCHANGE

6a. Docket/Case#: 96-0038 and 96-0039

6b. Court Name/Location: Not Provided

7. Allegations: see summary

8. Results: Rooney Trading, Inc. and Karen Johnson, a clerk associated with Rooney and Rooney Trading, were jointly and severally fined \$2,000 and each



censured and agreed to an educational meeting with staff on audit trail integrity and related matters for the following conduct.

9. Subject Wanted for Prosecution: No

10. Summary: Rooney and/or Johnson, on behalf of Rooney Trading, added or altered execution times recorded on Rooney's market-maker hardcards for approximately 10 transactions effected in November 1994, and caused the altered hardcards to be submitted during the verification procedure for eliminating summary fines for inaccurate transaction times. During November and December 1994, Rooney on behalf of Rooney Trading submitted and/or caused to be submitted trade tickets, without designated execution times or with inaccurate execution times to the Exchange and his clearing firm. (CHICAGO BOARD OPTIONS EXCHANGE Rules 4.1, 4.6, 6.51a and (b) and Interpretation and Policy .01 thereunder, and 17.2(B).



## About this BrokerCheck Report

BrokerCheck reports are part of a FINRA initiative to disclose information about FINRA-registered firms and individual brokers to help investors determine whether to conduct, or continue to conduct, business with these firms and brokers. The information contained within these reports is collected through the securities industry's registration and licensing process.

### Who provides the information in BrokerCheck?

Information made available through BrokerCheck is obtained from CRD as reported through the industry registration and licensing process.

The forms used by brokerage firms, to report information as part of the firms registration and licensing process, Forms BD and BDW, are established by the SEC and adopted by all state securities regulators and SROs. FINRA and the North American Securities Administrators Association (NASAA) establish the Forms U4 and U5, the forms that are used for the registration and licensing process for individual brokers. These forms are approved by the SEC. Regulators report disciplinary information for firms and individual brokers via Form U6.

### How current is the information contained in BrokerCheck?

Brokerage firms and brokers are required to keep this information accurate and up-to-date (typically not later than 30 days after learning of the event). BrokerCheck data is updated when a firm, broker, or regulator submits new or revised information to CRD. Generally, updated information is available on BrokerCheck Monday through Friday.

### What information is NOT disclosed through BrokerCheck?

Information that has not been reported to CRD or that is not required to be reported is not disclosed through BrokerCheck, such as vacated regulatory actions.

Additional information not disclosed through BrokerCheck includes Social Security Numbers, residential history information, and physical descriptive information. On a case-by-case basis, FINRA reserves the right to exclude information that contains confidential customer information, offensive and potentially defamatory language or information that raises significant identity theft or privacy concerns that are not outweighed by investor protection concerns. FINRA Rule 8312 describes in detail what information is and is not disclosed through BrokerCheck.

Under FINRA's current public disclosure policy, in certain limited circumstances, most often pursuant to a court order, information is expunged from CRD. Further information about expungement from CRD is available in FINRA Notices 99-09, 99-54, 01-65, and 04-16 at [www.finra.org](http://www.finra.org).

For further information regarding FINRA's BrokerCheck program, please visit FINRA's Web Site at [www.finra.org/brokercheck](http://www.finra.org/brokercheck) or call the FINRA BrokerCheck Hotline at (800) 289-9999. The hotline is open Monday through Friday from 8 a.m. to 8 p.m., Eastern Time (ET).

For more information about the following, select the associated link:

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- Questions Frequently Asked about BrokerCheck Reports: [http://www.finra.org/brokercheck\\_faq](http://www.finra.org/brokercheck_faq)
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# **EXHIBIT B**

[Home](#) | [Previous Page](#)

## U.S. Securities and Exchange Commission

### U.S. Securities & Exchange Commission

#### LITIGATION Release No. 16733 / September 27, 2000

Securities and Exchange Commission v. Adrian A. Alexander (formerly known as "Adrian Antoniu"); Susi Belli; David V. Stratman; Patrick J. Rooney; Constantine Spyropoulos; Jacobus J. Lam; John R. Rooney; Patrick G. Rooney; Pavel Hillel; Westcliff Partners, Inc.; Potenza Investments, Inc.; Quintillion B.V.; Rooney Trading, Inc.; Gianna Toffoli; and Penelope Afouxenide, U.S. District Court For The Southern District Of New York (00 Civ. 7290 (LTS))

#### **SEC SUES FIFTEEN FOR INSIDER TRADING, INCLUDING TWO CONVICTED IN PREVIOUS INSIDER TRADING SCHEME;**

#### **ANOTHER DEFENDANT, FORMER ROONEY PACE CHAIRMAN PATRICK J. ROONEY, PAYS OVER \$1,000,000 TO SETTLE INSIDER TRADING CHARGES**

The Securities and Exchange Commission sued eleven individuals and four entities today alleging insider trading in the securities of U.S. Shoe Corp. and Luxottica S.p.A. before the March 3, 1995 public announcement that Luxottica was commencing a hostile tender offer for U.S. Shoe. Among the defendants are Susi Belli, 39, former Manager of Investor and Public Relations for Luxottica, who is alleged to have repeatedly tipped her then boyfriend and current husband Adrian Alexander, 54, about Luxottica's secret plans to launch a tender offer for U.S. Shoe. Alexander, who in 1980 was convicted of insider trading under his former name Adrian Antoniu, in turn is alleged to have tipped others, including his then business partner Patrick J. Rooney, 61, former Chairman of Rooney Pace & Co., Inc., and Constantine Spyropoulos, 53, a resident of Greece who in 1983 was also convicted for his participation in Alexander's previous insider trading ring. The complaint seeks permanent injunctions, disgorgement of \$624,787 in illegal profits and \$20,250 in avoided losses, plus penalties and interest.

Simultaneously with the filing of the Complaint, Rooney settled the case against him. Without admitting or denying the allegations in the complaint, Rooney agreed to a permanent injunction against future violations of Section 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder, to disgorge \$405,290 which represents profits realized by people he tipped, plus \$231,568 in prejudgment interest, and to pay a civil penalty of \$405,290, for a total payment of \$1,042,148.

The Commission's Complaint alleges the following:

- Belli was a senior executive at Luxottica who was intimately involved in Luxottica's secret preparations to acquire U.S. Shoe. Beginning in December 1994, Belli repeatedly tipped confidential insider

information about Luxottica's plans to Alexander.

- Alexander in turn tipped his friend, retired criminal law professor David V. Stratman, age 65. In a series of transactions from December 15 through December 23, Stratman made his first ever purchases of U.S. Shoe securities, acquiring a total of 6,000 shares and 15 call options. Stratman also tipped his friend Pavel Hillel, age 51, who made his first ever purchase of U.S. Shoe, and first ever options trade, when he bought 10 U.S. Shoe call options on December 19, 1994.
- Alexander also tipped Rooney, with whom Alexander was then working at an operation known at various times as EC/American Ltd. or EC/American Securities Inc. On December 20, 1994, Rooney attempted to buy 10,000 U.S. Shoe call options for an account in the name of Quintillion B.V., a Dutch company, nominally controlled by Jacobus Lam, age 51, a Dutch national who was a business associate of Rooney's and Alexander's. After learning that the premium for 10,000 options would exceed \$2 million, Rooney reduced the order and arranged the purchase of 1,000 U.S. Shoe call options in Quintillion's account. Money to pay for the purchase came from another account held in the name of Potenza Investments, Inc., a Panamanian corporation based in the Netherlands. Lam is an officer of both Quintillion and Potenza.
- Alexander and Rooney also tipped Rooney's son John Rooney, who was also working with them at EC American Ltd. John and Patrick J. Rooney also tipped John's older brother Patrick G. Rooney. On January 6 and 9, 1995, Patrick G. Rooney made his first ever purchases of U.S. Shoe securities, buying a total of 36 call options and 5,000 shares.
- On or about January 29, 1995, Belli visited her mother, Italian national Gianna Toffoli, at her home in Cortina D'Ampezzo, Italy, and tipped her about Luxottica's plans to make a debt-financed tender offer. Shortly after this visit Toffoli sold 6,000 Luxottica ADRs.
- In mid-February 1995, Luxottica obtained preliminary financing commitments for a tender offer, which it planned to launch later that month. Belli tipped this information to Alexander, who tipped Rooney, Stratman, Lam, and Spyropoulos, the member of Alexander's 1970s criminal insider trading ring. Those tips led to a renewed burst of insider trading in which the following defendants bought U.S. Shoe securities between February 17 and February 24:

**Spyropoulos (trading in an account in relief defendant Penelope Afouxennide's name):** 9,000 shares; 270 call options.

**Stratman:** 28,260 shares; 100 call options.

**Westcliff Partners, Inc. (another Dutch entity controlled by Lam):** 300 call options.

**Patrick G. Rooney:** 200 call options.

- On March 3, 1995, Luxottica announced its tender offer for U.S. Shoe at \$24 per share - approximately 35% more than U.S. Shoe's closing price the day before. Luxottica's ADRs declined approximately 20%. Certain of the defendants had sold certain of their U.S. Shoe securities before the announcement to meet margin calls or for other reasons. As a result of their insider trading, defendants reaped the following illegal profits:

Quintillion B.V.	\$239,152.68
Westcliff Partners	\$63,187.50
Patrick G. Rooney	\$102,950.00
Constantine Spyropoulos and Penelope Afouxenide	\$117,175.00
David V. Stratman	\$95,947.50
Pavel Hillel	\$6,375.00

In addition, Toffoli avoided losses of \$20,250.

The Complaint alleges that each of the defendants except Afouxenide and Toffoli violated Sections 10(b) and 14(e) of the Securities Exchange Act of 1934 and Rules 10b-5 and 14e-3 thereunder. It alleges that Toffoli violated Section 10(b) and Rule 10b-5. It seeks disgorgement, penalties and permanent injunctions against those defendants. It seeks disgorgement only against relief defendant Afouxenide.

This is the Commission's third enforcement action alleging insider trading before the Luxottica/ U.S. Shoe tender offer. See SEC v. Malavasi (Lit. Rel. 14626 (September 6, 1995); and SEC v. Fiabane, et al., (Lit. Rel. 15010 (August 12, 1996). The Commission acknowledges the assistance of the Italian Commissione Nazionale per la Societa e la Borsa, the New York Stock Exchange and the Philadelphia Stock Exchange. Luxottica Group S.p.A. has cooperated with the Commission's investigation.

<http://www.sec.gov/litigation/litreleases/lr16733.htm>

# **EXHIBIT C**

ADMCLC,CASREF

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:00-cv-07290-LTS**

S.E.C. v. Alexander, et al  
Assigned to: Judge Laura Taylor Swain  
Referred to: Magistrate Judge Henry B. Pitman (Settlement)  
Demand: \$0  
Cause: 15:78m(a) Securities Exchange Act

Date Filed: 09/27/2000  
Date Terminated: 11/30/2005  
Jury Demand: Defendant  
Nature of Suit: 850  
Securities/Commodities  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**Securities and Exchange Commission**

represented by **Ashley C. Wall**  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549-0801  
(202) 942-4550  
*LEAD ATTORNEY*

**C. Joshua Felker**  
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450 Fifth Street, N.W.  
Washington, DC 20549  
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*LEAD ATTORNEY*

**Charles Derrick Stodghill**  
Securities and Exchange Commission  
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*LEAD ATTORNEY*

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**John B. Bulgozdy**  
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 Email: bulgozdyj@sec.gov  
*LEAD ATTORNEY*

**Robert B. Blackburn**  
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 Commission (Bdwy)  
 233 Broadway  
 New York, NY 10279  
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 Email: BlackburnR@SEC.GOV  
*LEAD ATTORNEY*

**Thomas C. Newkirk**  
 Securities and Exchange Commission  
 450 Fifth Street, N.W.  
 Washington, DC 20549-0801  
 (202) 942-4550  
*LEAD ATTORNEY*

V.

**Defendant**

**Adrian A. Alexander**  
*TERMINATED: 02/08/2005*  
*formerly known as*  
 Adrian Antoniu  
*TERMINATED: 02/08/2005*

represented by **Lawrence M. Rolnick**  
 Lowenstein Sandler LLP (NJ)  
 65 Livingston Avenue  
 Roseland, NJ 07068  
 (973)597-2500  
*LEAD ATTORNEY*

**Defendant**

**Susi Belli**  
*TERMINATED: 02/02/2005*

represented by **Lawrence M. Rolnick**  
 (See above for address)  
*LEAD ATTORNEY*

**Defendant**

**David V. Stratman**  
*TERMINATED: 04/25/2005*

represented by **Sheryl E Reich**  
 Law Offices of Gerald B. Lefcourt, P.C.

148 East 78th Street  
 New York, NY 10021  
 (212) 737-0400  
 Fax: (212) 988-6192  
 Email: Reich@Lefcourtlaw.com  
*TERMINATED: 08/01/2003*  
*LEAD ATTORNEY*

**Defendant**

**Patrick J. Rooney**  
*TERMINATED: 11/13/2000*

**Defendant**

**Constantine Spyropoulos**  
*TERMINATED: 06/28/2004*

represented by **Constantine Spyropoulos**

  
*LEAD ATTORNEY*

**Defendant**

**Jacobus J. Lam**  
*TERMINATED: 06/28/2004*

represented by **Charles Michael Carberry**

Jones Day (NYC)  
222 East 41st Street  
New York, NY 10017  
212-326-3920  
Fax: 212-755-7306  
Email: carberry@jonesday.com  
*TERMINATED: 04/16/2003*  
*LEAD ATTORNEY*

**Lee A. Armstrong**  
Jones Day (NYC)  
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(212)-326-8340  
Fax: (212)-755-7306  
Email: laarmstrong@jonesday.com  
*TERMINATED: 04/16/2003*  
*LEAD ATTORNEY*

**Defendant**

**John R. Rooney**  
*TERMINATED: 01/16/2004*

represented by **William Coudert Rand**

Law Office of William Coudert Rand  
488 Madison Avenue, Suite 1100  
New York, NY 10022  
(212) 286-1425  
Fax: (646) 688-3078  
Email: wcrand@wcrand.com  
*LEAD ATTORNEY*

**Defendant**

**Patrick G. Rooney**

represented by **Walker Green Harman , Jr.**

The Harman Firm PC  
1776 Broadway Suite 2030  
New York, NY 10019  
(212) 425-2600  
Fax: (212) 202-3926  
Email: wharman@theharmanfirm.com  
*LEAD ATTORNEY*

**Defendant**

**Pavel Hillel**

*TERMINATED: 06/23/2003*

represented by **Sheryl E Reich**

(See above for address)

*TERMINATED: 06/23/2003*

*LEAD ATTORNEY*

**Defendant**

**Westcliff Partners, Inc.**

*TERMINATED: 06/28/2004*

represented by **Charles Michael Carberry**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Lee A. Armstrong**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Defendant**

**Potenza Investments, Inc.**

*TERMINATED: 06/28/2004*

represented by **Charles Michael Carberry**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Lee A. Armstrong**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Defendant**

**Quintillon B.V.**

*TERMINATED: 06/28/2004*

represented by **Charles Michael Carberry**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Lee A. Armstrong**

(See above for address)

*TERMINATED: 04/16/2003*

*LEAD ATTORNEY*

**Defendant**

**Rooney Trading, Inc.**

represented by **Walker Green Harman , Jr.**

(See above for address)

*LEAD ATTORNEY*

**Defendant**

**Gianna Toffoli**

*TERMINATED: 08/14/2001*

**Defendant**

**Penelope Afouxenide**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
09/27/2000	1	COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636 (c). . (bm) (Entered: 09/28/2000)
09/27/2000		Magistrate Judge Henry B. Pitman is so Designated. (bm) (Entered: 09/28/2000)
10/13/2000	2	Preliminary PRE-TRIAL ORDER filed (signed by Judge Laura T. Swain) (djc) (Entered: 10/16/2000)
10/13/2000		Pretrial Conference set at 10:30 a.m. on 12/1/00 before Judge Laura T. Swain. (djc) (Entered: 10/17/2000)
10/25/2000	3	STIPULATION and ORDER, reset answer due for 11/20/00 for Patrick G. Rooney, for Patrick J. Rooney, for Rooney Trading, Inc., for Pavel Hillel, for David V. Stratman . ( signed by Judge Laura T. Swain ) (sn) (Entered: 10/26/2000)
10/25/2000	4	STIPULATION and ORDER, reset answer due for 11/20/00 for John R. Rooney . ( signed by Judge Laura T. Swain ) (sn) (Entered: 10/26/2000)
11/13/2000	5	FINAL JUDGMENT #00,2495, as to deft Patrick J. Rooney; that deft Patrick J. Rooney, his agents, servants, employees, and attys are permanently restrained as set forth in this Judgment; that deft Patrick J. Rooney shall disgorge a toatl of \$636,858, \$405,290 of which represents his gains and the gains of others, and \$231,568 of which represents prejudgment interest thereon; deft shall deliver into the Registry of the Court within 10 business days of the entry of the Final Judgment a certified check, cashiers check, wire transfer, or money order in the amount of \$636,858, representing the sum total of the disgorgement and prejudgment interest amounts; the Clerk of the Court shall accept for deposit into an interest bearing acct in the CRIS in cash check or wire transfer, defts' disgorement payment of \$636,858; the Clerk of the Court shall deduct from the income on the investment a fee equal to 10% the income earned, but not exceeding the fee authorized by the Judicial Conference of the US and set by the Director of the AO; deft Patrick J. Rooney shall pay a civil penalty in the total amount of \$405,290; deft shall deliver within 10 business days of the entry of the Final Judgment in this action a certified check, cashiers check, wire trnsfer, or money order in the amount of \$405,290, representing the penalty amount to Office of the Controller SEC, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312 (the check shall be made payable to the "Securities and Exchange Commission," bearing on its face the caption, "SEC v. Alexander, (HO-3018)"); deft also shall deliver a photocopy of the check within 10 business days of the entry of the Final Judgment in this action to: Erich T. Schwartz, Asst. Dir., SEC 450 Fifth St., NW, Wash, DC 20549-0706 ( signed by Judge Laura T. Swain ); Mailed copies and notice of right to appeal. Entered On Docket: 11/16/00. (lam) (Entered: 11/16/2000)
11/16/2000	6	Memo-Endorsement on letter addressed to Judge Swain from Sheryl E. Reich,

		dated 11/14/00, reset pre-trial conference for 11:15 2/2/01. the dedlines set forth in the Court's 10/13/00 Preliminary Pretrial order are modified accordingly ( signed by Judge Laura T. Swain ); Copies mailed. (cd) (Entered: 11/17/2000)
11/16/2000	7	STIPULATION extending time to move or answer; reset answer due for 1/22/01 for Patrick G. Rooney, for Rooney Trading, Inc., for Pavel Hillel, for David V. Stratman (signed by Judge Laura T. Swain ) (lam) (Entered: 11/17/2000)
11/17/2000		Remark by Cashier's on copy of Final Judgment As To Deft Patrick J. Rooney dated 11/8/00: 390462 11/17/00 \$636,858.00 placed in CRIS 11/21/00 (lf) (Entered: 11/22/2000)
11/22/2000	8	Affidavit of service by Sheryl E. Reich of memo endorsed letter by fax on 11/20/00 upon the parties set forth in this affidavit. (kw) (Entered: 11/28/2000)
01/22/2001	9	NOTICE OF MOTION by Susi Belli, Adrian A. Alexander; for an order, dismissing the complaint in its entirety on the grounds that it fails to plead with particularity ; and for an order, denying plttf leave to replead ; Return date 2/23/01. Oral Argument Requested. (sac) (Entered: 01/23/2001)
01/22/2001	10	MEMORANDUM OF LAW by Susi Belli, Adrian A. Alexander in support of [9-1] motion for an order, dismissing the complaint in its entirety on the grounds that it fails to plead with particularity, [9-2] motion for an order, denying plttf leave to replead. (sac) (Entered: 01/23/2001)
01/22/2001	11	NOTICE OF MOTION by David V. Stratman, Pavel Hillel to dismiss the complaint ; denying plttf leave to replead . Return date 2/23/01 @10:00am. (lam) (Entered: 01/24/2001)
01/22/2001	12	MEMORANDUM OF LAW by David V. Stratman, Pavel Hillel in support of [11-1] motion to dismiss the complaint, [11-2] motion denying plttf leave to replead . (lam) (Entered: 01/24/2001)
01/22/2001	13	NOTICE OF MOTION by Patrick G. Rooney, Rooney Trading, Inc. to dismiss the complaint ; denying plttf leave to replead . Return date 2/14/01 @10:00am. (lam) (Entered: 01/24/2001)
01/22/2001	14	MEMORANDUM OF LAW by Patrick G. Rooney, Rooney Trading, Inc. in support of [13-1] motion to dismiss the complaint, [13-2] motion denying plttf leave to replead . (lam) (Entered: 01/24/2001)
01/23/2001	15	NOTICE OF MOTION by John R. Rooney to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6) ; denying plttf leave to replead . Return date 2/23/01 @10:00am. (lam) (Entered: 01/24/2001)
01/23/2001	16	MEMORANDUM OF LAW by John R. Rooney in support of [15-1] motion to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6), [15-2] motion denying plttf leave to replead . (lam) (Entered: 01/24/2001)
01/26/2001	17	Memo-Endorsement on letter addressed to Judge Swain from Charles D. Stodghill, dated 1/22/01; reset pre-trial conference for 4/5/01 at 2:00 p.m.

		( signed by Judge Laura T. Swain ); Copies mailed. (sac) (Entered: 01/29/2001)
02/02/2001	18	CERTIFICATE OF SERVICE of copy of the memo endorsed order rescheduling the initial pretrial converence by facsimile to those listed. (lam) (Entered: 02/07/2001)
02/09/2001	19	MEMORANDUM OF LAW by S.E.C. in opposition to [11-1] motion to dismiss the complaint, and [11-2] motion denying plttf leave to replead. (kw) (Entered: 02/13/2001)
02/09/2001	20	MEMORANDUM OF LAW by S.E.C. in opposition to [9-1] motion for an order, dismissing the complaint in its entirety on the grounds that it fails to plead with particularity, and [9-2] motion for an order, denying plttf leave to replead. (kw) (Entered: 02/13/2001)
02/15/2001	21	MEMORANDUM OF LAW by S.E.C. in opposition to [15-1] motion to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6), [15-2] motion denying plttf leave to replead. (kw) (Entered: 02/20/2001)
02/15/2001	22	MEMORANDUM OF LAW by S.E.C. in opposition to [13-1] motion to dismiss the complaint, and [13-2] motion denying plttf leave to replead. (kw) (Entered: 02/20/2001)
02/20/2001	23	REPLY MEMORANDUM by Adrian A. Alexander, Susi Belli re: in further support of [9-1] motion for an order, dismissing the complaint in its entirety on the grounds that it fails to plead with particularity, [9-2] motion for an order, denying plttf leave to replead (emil) (Entered: 02/23/2001)
02/23/2001	24	REPLY MEMORANDUM by John R. Rooney in support of re: [15-1] motion to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6) (pl) (Entered: 02/26/2001)
02/27/2001	25	REPLY BRIEF by Patrick J. Rooney, Rooney Trading, Inc. in Support of [15-1] motion to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6). (djc) (Entered: 02/28/2001)
03/15/2001	26	RULE 1.9 CERTIFICATE filed by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. (kkc) (Entered: 03/16/2001)
03/15/2001	27	ANSWER to Complaint by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. (Attorney Lee A. Armstrong, Charles M. Carberry from the Firm: Jones, Day, Beavis & Pogue). (kkc) (Entered: 03/16/2001)
03/28/2001	28	DEMAND for jury trial by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. (pl) (Entered: 03/29/2001)
03/30/2001	29	NOTICE OF MOTION (filed on service date) by Gianna Toffoli for an order purs to FRCP 12(b)(6) and 9(b) dismissing the Complaint in its entirety ; Return date 5/7/01. (djc) (Entered: 04/02/2001)
03/30/2001	30	MEMORANDUM OF LAW by Gianna Toffoli in support of [29-1] motion for an order purs to FRCP 12(b)(6) and 9(b) dismissing the Complaint in its

		entirety . (djc) (Entered: 04/02/2001)
04/03/2001	31	Joint Preliminary Pre-Trial Statement. (lam) (Entered: 04/04/2001)
04/05/2001		Pretrial Conference held before Judge Laura T. Swain . (djc) (Entered: 04/10/2001)
04/06/2001	32	PRE-TRIAL SCHEDULING ORDER: Joining of parties,amending of pleadings on 11/30/01; all non-expert witness discovery cutoff 7/31/02; dispositive motions, if any, to be served and filed by 1/31/03; final Pretrial conference for 10:00 4/25/03; the Government's response to the Toffoli motion to dismiss shall be served and filed by 4/23/01. Reply papers shall be served and filed by 5/3/01; Oral Argument set for 10:00 5/9/01. ( signed by Judge Laura T. Swain ); Copies mailed. (pl) (Entered: 04/11/2001)
04/25/2001	33	MEMORANDUM OF LAW by S.E.C. in opposition to [29-1] motion purs to FRCP 12(b)(6) and 9(b) dismissing the Complaint in its entirety . (lam) (Entered: 04/30/2001)
04/26/2001	34	NOTICE OF MOTION by Patrick G. Rooney, Rooney Trading, Inc. for Stephen T. Gannon and Ricardo J. Nunez to appear pro hac vice for defts Patrick G. Rooney, and Rooney Trading, Inc. Return date 4/27/01 @2:00pm. (lam) (Entered: 04/30/2001)
04/26/2001	35	AFFIDAVIT of Stephen T. Gannon, atty by Patrick G. Rooney, Rooney Trading, Inc. in support of [34-1] motion for Stephen T. Gannon and Ricardo J. Nunez to appear pro hac vice for defts Patrick G. Rooney, and Rooney Trading, Inc. (lam) (Entered: 04/30/2001)
04/26/2001	36	AFFIDAVIT of Ricardo J. Nunez, atty, by Patrick G. Rooney, Rooney Trading, Inc. in support of [34-1] motion for Stephen T. Gannon and Ricardo J. Nunez to appear pro hac vice for defts Patrick G. Rooney, and Rooney Trading, Inc. (lam) (Entered: 04/30/2001)
04/26/2001	37	AFFIDAVIT of Walker G. Harman, Jr., atty for Patrick G. Rooney, Rooney Trading, Inc. in support of [34-1] motion for Stephen T. Gannon and Ricardo J. Nunez to appear pro hac vice for defts Patrick G. Rooney, and Rooney Trading, Inc. . (lam) (Entered: 04/30/2001)
05/01/2001	38	ORDER; granting [34-1] motion for Stephen T. Gannon and Ricardo J. Nunez to appear pro hac vice for defts Patrick G. Rooney, and Rooney Trading, Inc.; that an attorney admitted to practice pro hac vice is required to pay a \$25.00 attorney admission fee and present this Order to the intake deputy clerk in the Clerk's Office. When paying by mail, return a copy of this Order to the Clerk's Office with the required fee ; the attorneys admitted pro hac vice must serve a copy of this Order on all other counsel in this case . ( signed by Judge Laura T. Swain ); Copies mailed; forwarded this document to the Attorney Admission Clerk. (pl) Modified on 05/03/2001 (Entered: 05/02/2001)
05/03/2001	39	REPLY MEMORANDUM by Gianna Toffoli in support of re: [29-1] motion for an order purs to FRCP 12(b)(6) and 9(b) dismissing the Complaint in its entirety (pl) (Entered: 05/04/2001)
05/07/2001	40	ORDER of SUBSTITUTION OF COUNSEL the Law Office of William

		Coudert Rand is substituted as counsel of record for deft John R. Rooney in place and stead of Paul Hastings Janofsky & Walker ( signed by Judge Laura T. Swain ); Copies mailed. (cd) (Entered: 05/08/2001)
05/08/2001		Remark made from Cashier's Office on copy of Order doc. #38, admitting Stephen T. Gannon & Ricardo J. Nunez to appear pro hac vice for defts' John R. Rooney & Patrick Rooney. \$50 Atty Admission Fee paid on 5/8/01, #405162. (sac) Modified on 05/14/2001 (Entered: 05/14/2001)
05/09/2001		Motion Hearing before Judge Laura T. Swain. (kw) (Entered: 05/10/2001)
08/08/2001	41	AFFIDAVIT OF SERVICE of S/C as to Constantine Spyropoulos, Penelope Afouxenide by nail and mail on 12/22/00. Answer due on 1/11/01 for Constantine Spyropoulos, for Penelope Afouxenide . (cd) (Entered: 08/09/2001)
08/10/2001	42	ORDER; that the plttf may make a motion for a default judgment; the plttf's motion shall be accompanied by evidence, in admissible form, of such facts as it would have proffered to meet its burden of proof on its direct case had a trial been in this action; that such motion for default judgment shall be served on the defts and shall be accompanied by copies of the Clerk's Certificate and of proof of service of the summons and complaint and the motion for default judgment as provided by the undersigned's Individual Practices Rule; that said motion shall be briefed in accordance with the schedule set forth in Local Civil Rule 6.1 and will be taken on submission unless otherwise directed by the directed by the Court; that plttf shall serve a copy of this Order on defts and file proof of such service within 45 days from the date hereof. ( signed by Judge Laura T. Swain ); Copies mailed. (sac) (Entered: 08/10/2001)
08/14/2001	43	OPINION and ORDER #85964; denying [15-1] motion to dismiss the claims in their entirety purs to FRCP Rule 9(b) and 12(b)(6); denying [9-1] motion for an order, dismissing the complaint in its entirety on the grounds that it fails to plead with particularity; denying [13-1] motion to dismiss the complaint; denying [11-1] motion to dismiss the complaint; the motions of Adrian Alexander, Pavel Hillel to dismiss teh SEC's complaint on the grounds that it fails toplead frud with th particularity required of FRCP 9(b) are denied ; granting [29-1] motion for an order purs to FRCP 12(b)(6) and 9(b) dismissing the Complaint in its entirety . ( signed by Judge Laura T. Swain ); Copies mailed. (djc) (Entered: 08/14/2001)
08/27/2001	44	Memo-Endorsement on letter addressed to Judge Swain from William C. Rand, dated 8/22/01, granting counsel for John R. Rooney extension of time to answer the complaint from 8/28/01 to 9/24/01 . ( signed by Judge Laura T. Swain ); Copies mailed. (tp) (Entered: 08/28/2001)
08/28/2001	45	DECLARATION OF SERVICE of order extending time to answer of John R. Rooney dated August 24, 2001 by mail on 8/28/01 to Charles Stodghill, Esq. of SEC, Lawrence M. Rolnikck, Esq., Sheryl E. Reich and Steven T. Gannon. (djc) (Entered: 08/29/2001)
09/19/2001	46	ORDER Extending Time to Answer; that defendants Adrian A. Alexander and Susi Belli's time to answer plaintiff's complaint in this matter is extended until 9/24/01 ; a copy of this Order be served on all counsel of record within 5 days

		hereof . ( signed by Judge Laura T. Swain ); Copies mailed. (kkc) (Entered: 09/20/2001)
09/20/2001	47	DECLARATION OF SERVICE of Court Order dated 8/8/01 as to Constantine Spyropoulos, Penelope Afouxenide by posting documents on front door, on 9/14/01. (sn) (Entered: 09/24/2001)
09/24/2001	48	ANSWER to Complaint by Pavel Hillel (Attorney Sheryl E. Reich from the Firm: Gerald B. Lefcourt, P.C.). (db) (Entered: 09/25/2001)
09/24/2001	49	ANSWER to Complaint by David V. Stratman (Attorney Sheryl E. Reich from the Firm: Gerald B. Lefcourt, P.C.). (db) (Entered: 09/25/2001)
09/24/2001	50	ANSWER to Complaint by John R. Rooney (Attorney William C. Rand from the Firm: Law Office of William Coudert Rand); jury demand. (db) (Entered: 09/25/2001)
09/24/2001	51	ANSWER to Complaint by Patrick G. Rooney, Rooney Trading, Inc. (Attorney Walker G. Harman Jr. from the Firm: Dickstein, Shapiro, Morin & Oshinsky, L.L.P.); jury demand. (db) (Entered: 09/25/2001)
09/24/2001	52	DEMAND for jury trial by Patrick G. Rooney, Rooney Trading, Inc. (db) (Entered: 09/25/2001)
09/24/2001	53	ANSWER to Complaint by Adrian A. Alexander (Attorney Lawrence M. Rolnick from the Firm: Lowenstein, Sandler, P.C.); jury demand. (db) (Entered: 09/25/2001)
09/24/2001	54	ANSWER to Complaint by Susi Belli (Attorney Lawrence M. Rolnick from the Firm: Lowenstein, Sandler, P.C.); jury demand. (db) (Entered: 09/25/2001)
09/25/2001	55	DEMAND for jury trial by David V. Stratman. (jco) (Entered: 09/26/2001)
09/25/2001	56	DEMAND for jury trial by Pavel Hillel. (jco) (Entered: 09/26/2001)
09/28/2001	57	Memo-Endorsement on letter addressed to Judge Swain from Sheryl E. Reich, dated 9/28/01; granting depts' Pavel Hillel and David Stratman request for an extension of time until 9/24/01, within which to file an Answer. ( signed by Judge Laura T. Swain ); Copies mailed. (sac) (Entered: 10/01/2001)
02/28/2002		Terminated documents 9, 11-2, 13-2, 15-2 pursuant to order of Judge Swain as indicated on the CJRA report. (rag) (Entered: 02/28/2002)
03/01/2002	58	Memo-Endorsement on letter addressed to Judge Swain from Charles D. Stodghill, dated 2/26/02, a conference will be held on 3/6/02 at 4:45pm. Any parties wishing to participate by telephone shall so reform the Courtroom Deputy, Ms. Durocher, no later than noon on 3/4/02 and shall be responsible for arranging a conference call and calling in to a number designated by Ms. Durocher ( signed by Judge Laura T. Swain ); Copies mailed. (cd) (Entered: 03/04/2002)
03/08/2002	59	CERTIFICATE OF SERVICE of Decl. of Service w/exhibits as to the legal counsel for plaintiffs: Adrian A. Alexander, Susi Belli, David V. Stratman, Patrick J. Rooney, Constantine Spyropoulos, Jacobus J. Lam, John R. Rooney, Patrick G. Rooney, Pavel Hillel, Westcliff Partners, Potenza Investments,

		Quintillon B.V., Rooney Trading, Inc., Gianna Toffoli, Penelope Afouxenide by facsimile on 2/28/02 . Answer due on 3/20/02 for Adrian A. Alexander, for Susi Belli, for David V. Stratman, for Patrick J. Rooney, for Constantine Spyropoulos, for Jacobus J. Lam, for John R. Rooney, for Patrick G. Rooney, for Pavel Hillel, for Westcliff Partners, for Potenza Investments, for Quintillon B.V., for Rooney Trading, Inc., for Gianna Toffoli, for Penelope Afouxenide. As per request a return copy with a received stamp from the USDC-SDNY was mailed back to the SEC-enforcement division, attn: Charles D. Stodghill on 3/12/02. (db) Modified on 03/12/2002 (Entered: 03/12/2002)
03/11/2002	60	NOTICE OF MOTION by Patrick G. Rooney, Rooney Trading, Inc.; for an Order pursuant to Local Civil Rule 1.4 for Ricardo J. Nunez, Stephen T. Gannon and LeClair Ryan to withdraw as counsel of record for defendants Patrick G. Rooney and Rooney Trading Inc . No return date set. Proposed Order attached. Received in night deposit on 3/11/02 at 6:47 p.m. (kkc) Modified on 08/13/2002 (Entered: 03/13/2002)
03/11/2002	61	AFFIDAVIT of Patrick G. Rooney by Patrick G. Rooney, Rooney Trading, Inc. in support of [60-1] motion for an Order pursuant to Local Civil Rule 1.4 for Ricardo J. Nunez, Stephen T. Gannon and LeClair Ryan to withdraw as counsel of record for defendants Patrick G. Rooney and Rooney Trading Inc. Received in night deposit on 3/11/02 at 6:46 p.m. (kkc) (Entered: 03/13/2002)
04/05/2002	62	ORDER granting [60-1] motion for an Order pursuant to Local Civil Rule 1.4 for Ricardo J. Nunez, Stephen T. Gannon and LeClair Ryan to withdraw as counsel of record for defendants Patrick G. Rooney and Rooney Trading Inc. As of the date of service of this Order, all further notices, papers or pleadings that must be served on Patrick G. Rooney and Rooney Trading, Inc. must be served on Mark J. Krudys, of Mark J. Krudys, PLLC, and Walker G. Harmon, Jr. of Dickstein Shapiro Morin & Oshinsky LLP . Ricardo J. Nunez, Stephen T. Gannon, and LeClair Ryan, P.C., are ordered to give written notice of this Order to all parties to this action in addition to any notice the clerk may give of this Order. Mark J. Krudys, and Walker J. Harmon, Jr. will file a copy of the written notice, with a certificate of service attached within 10 days from the date of this Order . . ( signed by Judge Laura T. Swain ); Copies mailed. (sn) (Entered: 04/09/2002)
07/19/2002	63	Memo-Endorsement on letter addressed to Judge Swain from William C. Rand, dated 5/20/02; set pre-motion conference set for 4:00 8/26/02 ; the SEC's written response to this letter shall be served and delivered to the undersigned by 8/1/02. Any reply shall be served and submitted by 8/9/02 . ( signed by Judge Laura T. Swain ); Copies mailed. (pl) (Entered: 07/22/2002)
08/08/2002	64	STIPULATION and ORDER, the time for completion of fact discovery is extended to 11/29/02. The time for the completion of all discovery, currently set to expire on 11/29/02 shall remain unchanged . ( signed by Judge Laura T. Swain ) (kw) (Entered: 08/12/2002)
08/09/2002	65	NOTICE OF MOTION by Constantine Spyropoulos, Penelope Afouxenide for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) . Return Date 8/23/02 at 9:00. Proposed Order attached. Received in the night deposit box on 8/9/02 at 5:34 p.m. (sb)

		(Entered: 08/13/2002)
08/09/2002	66	MEMORANDUM OF LAW by Constantine Spyropoulos, Penelope Afouxenide in support of [65-1] motion for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) . (sb) (Entered: 08/13/2002)
08/09/2002	67	DECLARATION of Bradley D. Simon by Constantine Spyropoulos, Penelope Afouxenide in support of [65-1] motion for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) . (sb) (Entered: 08/13/2002)
08/09/2002	68	NOTICE OF MOTION by Constantine Spyropoulos, Penelope Afouxenide for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . Return Date 8/23/02 at 9:00. Proposed Order attached. Received in the night deposit box on 8/9/02 at 5:34 p.m. (sb) (Entered: 08/13/2002)
08/09/2002	69	MEMORANDUM OF LAW by Constantine Spyropoulos, Penelope Afouxenide in support of [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (sb) (Entered: 08/13/2002)
08/09/2002	70	DECLARATION of Bradley D. Simon by Constantine Spyropoulos, Penelope Afouxenide in support of [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (sb) (Entered: 08/13/2002)
08/12/2002	71	Memo-Endorsement on letter addressed to Judge Swain from Charles D. Stodghill, dated 8/2/02. The requested extension is granted. The pre-motion discovery conference is adjourned to 8/29/02 at 11:15 a.m. ( signed by Judge Laura T. Swain ); Copies mailed. (kw) (Entered: 08/14/2002)
08/21/2002	72	CERTIFICATE OF SERVICE of memo endorsed letter as to Adrian A. Alexander, Susi Belli, David V. Stratman, Constantine Spyropoulos, Jacobus J. Lam, John R. Rooney, Patrick G. Rooney, Pavel Hillel, Westcliff Partners, Potenza Investments, Quintillon B.V., Rooney Trading, Inc., Penelope Afouxenide by facsimile on 8/20/02 to their respective attorneys and including Mark J. Krudys, Esq. and Bradley Simon, Esq. (db) (Entered: 08/27/2002)
08/29/2002		PRETRIAL CONFERENCE held on 8/29/02 before Judge Laura T. Swain. (gf) (Entered: 09/05/2002)
08/29/2002		PRETRIAL CONFERENCE set at 4:30 10/17/02 before Judge Laura T. Swain . (gf) (Entered: 09/05/2002)
08/30/2002	73	Memo-Endorsement on letter addressed to Judge Swain from Charles D. Stodghill, dated 8/27/02, Plntf's Response to Motion reset for 10/31/02 re: [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) ; Plntf's Response to Motion reset for 10/25/02 re: [65-1] motion for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) ( signed by Judge Laura T. Swain ); Copies mailed. (cd) (Entered:

		09/04/2002)
08/30/2002	74	Memo-Endorsement on letter addressed to Judge Swain from Bryan Blaney, dated 8/27/02, Re: defts request for amendment of the present schedule for pre-trial proceedings, on behalf of each party to this litigation: the request is granted. Counsel shall provide the Court with a proposed order specifying the requested adjustments to the scheduling order on or before 10/11/02 if a settlement is not achieved ( signed by Judge Laura T. Swain ); Copies mailed. (cd) (Entered: 09/04/2002)
08/30/2002	76	AFFIDAVIT of Constantine Spyropoulos by Constantine Spyropoulos. (moc) (Entered: 09/06/2002)
08/30/2002	77	AFFIDAVIT of Penelope Afouxenide by Penelope Afouxenide. (moc) (Entered: 09/06/2002)
08/30/2002	78	ORDER TO SHOW CAUSE by Adrian A. Alexander, Susi Belli, David V. Stratman, Constantine Spyropoulos, Jacobus J. Lam, John R. Rooney, Patrick G. Rooney, Pavel Hillel, Westcliff Partners, Potenza Investments, Quintillon B.V., Rooney Trading, Inc., Penelope Afouxenide Show Cause Hearing set for 4:30 10/17/02; for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants . ( signed by Judge Laura T. Swain ); Copies mailed. (jco) (Entered: 09/06/2002)
09/03/2002	75	Memorandum to Docket Clerk: Pretrial conference held on 8/29/02 before Judge Swain, next trial is adjourned to 10/17/02 at 4:30 p.m. (gf) (Entered: 09/05/2002)
09/05/2002	79	MEMORANDUM OF LAW by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. in support of [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants . (djc) (Entered: 09/10/2002)
09/05/2002	80	AFFIRMATION of Lee A. Armstrong by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. in support of [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants . (djc) (Entered: 09/10/2002)
09/05/2002	82	AFFIRMATION of Lee A. Armstrong by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. in support of [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants . (djc) (Entered: 09/16/2002)
09/06/2002	81	CERTIFICATE OF SERVICE of [74-1] order as to Adrian A. Alexander, Susi Belli, David V. Stratman, Patrick J. Rooney, Constantine Spyropoulos, Jacobus J. Lam, John R. Rooney, Patrick G. Rooney, Pavel Hillel, Westcliff Partners, Potenza Investments, Quintillon B.V., Rooney Trading, Inc., Gianna Toffoli, Penelope Afouxenide by fax on 9/4/02 . . (moc) (Entered: 09/12/2002)

09/27/2002	83	RESPONSE by S.E.C. to [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants (cd) (Entered: 10/02/2002)
10/07/2002	84	REPLY MEMORANDUM by Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. in support re: [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants. (sac) (Entered: 10/11/2002)
10/17/2002	85	Memo-Endorsement on letter addressed to Judge Swain from Bryan Blaney, dated 10/14/02. Re:, the parties request an additional week to determine if settlement can be accomplished. The foregoing request is granted. The conference is adjourned to 11/13/02 at 4:30 p.m. . ( signed by Judge Laura T. Swain ); Copies Mailed by Chambers. (db) (Entered: 10/21/2002)
10/21/2002	86	Memo-Endorsement on letter addressed to Judge Swain from Bryan Blaney, dated 10/17/02; counsel writes to request clarification of the Court's response to counsel's letter dated 10/14/02 regarding additional time to pursue settlement without waiver of pretrial discovery time. Counsel's understanding is accurate . ( signed by Judge Laura T. Swain ); Copies Faxed by Chambers. (kkc) (Entered: 10/25/2002)
11/01/2002		MEMORANDUM OF LAW by S.E.C. in opposition to [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (moc) (Entered: 11/05/2002)
11/01/2002		DECLARATION of Charles D. Stodghill by S.E.C. in opposition Re: [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (moc) Modified on 11/05/2002 (Entered: 11/05/2002)
11/01/2002	87	MEMORANDUM OF LAW by S.E.C. in opposition to [65-1] motion for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) . (moc) (Entered: 11/05/2002)
11/01/2002	88	DECLARATION of Charles D. Stodghill by S.E.C. in opposition Re: [65-1] motion for an Order setting aside the entry of default against Spyropoulos and Afouxenide purs. to FRCP 55(c) . (moc) (Entered: 11/05/2002)
11/01/2002	89	MEMORANDUM OF LAW by S.E.C. in opposition to [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (moc) (Entered: 11/05/2002)
11/01/2002	90	DECLARATION of Ashley C. Wall by S.E.C. in opposition Re: [68-1] motion for an Order dismissing the cause of action against Spyropoulos and Afouxenide for lack of personal jurisdiction purs. to FRCP 12(b)(2) . (moc) (Entered: 11/05/2002)
11/22/2002	91	Memo-Endorsement on letter addressed to Judge Swain from Charles D. Stodghill, dated 11/20/02, reset all fact and expert discovery due for 4/30/03 ;

		reset motion filing deadline for 6/30/03 ; reset pretrial conference for 1/16/04 at 10:00 The prior pre-trial scheduling order remains in effect in all other respects. The parties shall deal with Judge on discovery matters ( signed by Judge Laura T. Swain ); copy sent by Chambers (cd) Modified on 04/28/2003 (Entered: 11/26/2002)
12/03/2002	92	CERTIFICATE OF SERVICE of memo endorsed order as to Adrian A. Alexander, Susi Belli, David V. Stratman, Constantine Spyropoulos, Jacobus J. Lam, John R. Rooney, Patrick G. Rooney, Pavel Hillel, Westcliff Partners, Potenza Investments, Quintillon B.V., Rooney Trading, Inc., Penelope Afouxenide by facsimile to dft's counsel on 11/25/02. (db) (Entered: 12/09/2002)
12/09/2002	93	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Discovery Management/Settlement. Referred to Magistrate Judge Henry B. Pitman. (Signed by Judge Laura Taylor Swain on 12/9/02) (rag, ) (Entered: 05/13/2004)
12/17/2002	94	PROTECTIVE ORDER, regarding procedures that shall govern the handling of "Confidential" information . ( signed by Magistrate Judge Henry B. Pitman ); (ae) (Entered: 12/19/2002)
02/03/2003	95	National Archives and Records Administration (transcript of 82 cr. 0166 before Judge Haight dated 1/31/83) filed by S.E.C. (kw) (Entered: 02/05/2003)
02/04/2003	96	Memo-Endorsement on letter addressed to Judge Swain from Ashley C. Wall, dated 1/28/03. Re: counsel for plttf requests leave to submit additional relevant evidence to supplement the Commission's previously filed oppositions as further set forth. Application granted . ( signed by Judge Laura T. Swain ); Copies Faxed by Chambers. (db) (Entered: 02/10/2003)
02/05/2003	97	CERTIFICATE OF SERVICE of memo endorsed order by facsimile on 2/4/03 to persons as stated in this service; (djc) (Entered: 02/11/2003)
03/04/2003	98	NOTICE OF MOTION by David V. Stratman pursuant to Local Civil Rule 1.4 permitting the law firm of Gerald B. Lefcourt, P.C. to withdraw as counsel of record for defendant . Return Date not indicated. Affirmation of Sheryl E. Reich in support and Proposed Order attached. (yv) Modified on 03/07/2003 (Entered: 03/07/2003)
03/04/2003	99	MEMORANDUM OF LAW by David V. Stratman in support of [98-1] motion pursuant to Local Civil Rule 1.4 permitting the law firm of Gerald B. Lefcourt, P.C. to withdraw as counsel of record for defendant . (yv) (Entered: 03/07/2003)
04/16/2003	100	CERTIFICATE OF SERVICE of Court's Order dated 4/15/03 as to list of persons attached by fax and FedEx on 4/16/03. (sb) (Entered: 04/18/2003)
04/16/2003	101	ORDER; granting [78-1] motion for an Order pursuant to Local Civil Rule 1.4 permitting the law firm of Jones, Day, Reavis & Pogue to withdraw as attorneys of record for defendants (Terminated attorney Lee A. Armstrong for Quintillon B.V., attorney Charles M. Carberry for Quintillon B.V., attorney

		Lee A. Armstrong for Potenza Investments, attorney Charles M. Carberry for Potenza Investments, attorney Lee A. Armstrong for Westcliff Partners, attorney Charles M. Carberry for Westcliff Partners, attorney Lee A. Armstrong for Jacobus J. Lam, attorney Charles M. Carberry for Jacobus J. Lam); That if defts intend to continue to contest the SEC's claims in this case, each of them shall within 60 days of the date of this Order, cause of Notice of Appearance to be filed with this Court and served on all other parties by new counsel. That if Jacobus J. Lam intends to appear pro se he shall contact the pro se office of this Court. That if any of the defts fails to enter the Notice of Appearance within 60 days from the date of this Order that the Court may enter a default judgment against such deft. ( signed by Judge Laura T. Swain ); Copies faxed by Chamber. (sac) (Entered: 04/21/2003)
04/29/2003	102	Memo-Endorsement on letter addressed to Judge Swain from Ashley C. Wall, dated 4/24/03: The requested modification is granted. The discovery deadline is extended for an additional 120 days or until 8/29/03 to allow the parties time to complete anticipated depositions, some of which require overseas travel. The deadline for dispositive motions is set to 90 days prior to the Pre-Trial Conference date, or no later than Monday, 10/20/03 . ( signed by Judge Laura T. Swain ). COPIES MAILED BY CHAMBERS. (tp) Modified on 04/30/2003 (Entered: 04/30/2003)
05/01/2003	103	CERTIFICATE OF SERVICE of memo endorsed order as to list of persons by fax on 4/30/03. (sb) (Entered: 05/06/2003)
05/20/2003	104	ORDER: for reasons further set forth in said order, dfts Spyropoulos and Afouxenide [68-1] motion to dismiss for lack of personal jurisdiction purs. to FRCP 12(b)(2) is GRANTED with respect to Afouxenide and DENIED with respect to Spyropoulos. Dft Spyropoulos shall serve and file his response to the complaint within thirty (30) days from the date hereof. ( signed by Judge Laura T. Swain ); Copies Mailed by Chambers. (db) (Entered: 05/21/2003)
05/20/2003	105	ORDER, that in light of the foregoing, the Court finds no appropriate basis for preventing Spyropoulos and Afouxenide from defending this action. Accordingly, to the extent the Court's records in this case reflect a default by Defendants Spyropoulos and Afouxenide, the default is set aside. ( signed by Judge Laura T. Swain ); Copies mailed by Chambers. (tp) (Entered: 05/22/2003)
05/28/2003	106	NOTICE of change of address by John R. Rooney . (yv) (Entered: 06/03/2003)
06/23/2003	107	JUDGMENT # 03,1268; that defendant Pavel Hillel, defendant's agents, servants, etc. are permanently restrained and enjoined from violating, directly or indirectly; Section 10(b) of the Securities Exchange Act of 1934 (the"Exchange Act") [15 U.S.C. 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10B-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security: as further set forth in this final judgment. ( signed by Judge Laura T. Swain ); Mailed copies and notice of right to appeal. Entered On Docket: 6/24/03. (jco) Modified on 06/30/2003 (Entered: 06/24/2003)

07/07/2003		Received returned mail re: [107-1] judgment order. Mail was addressed to Robert B. Blackburn at 7 World Trade Center Suite 1300 New York NY 10048 and was returned for the following reason(s): not deliverable as addressed- unable to forward. (jco) (Entered: 09/08/2003)
07/16/2003		CASHIER'S OFFICE REMARK on [107-1] judgment order in the amount of \$11,809.83 paid on 7/2/03 Receipt # 478014. Placed into CRIS 7/8/03. (yv) (Entered: 07/16/2003)
07/25/2003	108	ORDER, plaintiff(s) may make a motion for a default judgment as set forth in this document. Plaintiff(s) shall serve a copy of this Order on defendant(s) and file proof of such service within ten days from the date hereof . ( signed by Judge Laura T. Swain ); Copies mailed by chambers. (kw) (Entered: 07/28/2003)
07/25/2003	109	ORDER, plaintiff may renew its motion for a default judgment as set forth in this document. Plaintiff shall serve a copy of this Order on defendant(s) and file proof of such service within ten days from the date hereof . ( signed by Judge Laura T. Swain ); Copies mailed by chambers. (kw) (Entered: 07/28/2003)
08/01/2003	110	SEALED DOCUMENT placed in vault. (wv) (Entered: 08/01/2003)
08/01/2003	111	ORDER; granting [98-1] motion pursuant to Local Civil Rule 1.4 permitting the law firm of Gerald B. Lefcourt, P.C. to withdraw as counsel of record for defendant (Terminated attorney Sheryl E. Reich for David V. Stratman). ( signed by Judge Laura T. Swain ); Copies faxed by Chambers. (sb) (Entered: 08/04/2003)
08/12/2003	112	ORDER, that the motion for The Law Office of Bradley D. Simon is granted and that they are permitted to withdraw from this matter as counsel to defendant Spyropoulos following its service of a certificate attesting to the service of copies of this Order upon defendant Spyropoulos and all counsel of record in this case ; Defendant Spyropolous shall,if he wishes to continue to defend this case, file a notice of appearance pro se or cause a notice of appearance to be filed by substitute counsel within 45 days from the date of this Order as further set forth. The Clerk of Court shall update the records of the Court to reflect the following contact information for defendant Spyropoulos: Constantine Spyropoluos, P.O. Box 292, Markopoulo, Atikis, Greece . ( signed by Judge Laura T. Swain ); Copies faxed by Chambers. (tp) (Entered: 08/13/2003)
09/12/2003	113	DECLARATION of Charles Stodghill by S.E.C. in support of request for entry of default against defendant Constantine Spyropoulos. (dle) (Entered: 09/16/2003)
09/19/2003	119	NOTICE by S.E.C. of filing of clerk's certificate and Stodghill Declaration. (dle) (Entered: 10/17/2003)
09/30/2003	114	NOTICE OF MOTION by S.E.C.; for an Order for entry of final judgment against defendant Constantine Spyropoulos pursuant to Rule 55(b) of the F.R.C.P. Return Date not indicated. Proposed Order and Judgment attached. (jco) Modified on 10/02/2003 (Entered: 10/02/2003)

09/30/2003	115	MEMORANDUM OF LAW by S.E.C. in support of [114-1] motion for an Order for entry of final judgment against defendant Constantine Spyropoulos pursuant to Rule 55(b) of the F.R.C.P. (jco) (Entered: 10/02/2003)
09/30/2003	116	DECLARATION of Charles Stodghill by S.E.C. in support Re: [114-1] motion for an Order for entry of final judgment against defendant Constantine Spyropoulos pursuant to Rule 55(b) of the F.R.C.P. Exhibits 1-13 attached. (jco) Modified on 10/02/2003 (Entered: 10/02/2003)
10/09/2003	117	AFFIDAVIT of Kenneth C. Murphy by Constantine Spyropoulos. (sb) (Entered: 10/14/2003)
10/09/2003	118	AFFIDAVIT OF SERVICE of Order permitting The Law Offices of Bradley D. Simon as to S.E.C., Constantine Spyropoulos, Jacobus J. Lam by U.S. Mail on 10/3/03. (sb) (Entered: 10/14/2003)
10/16/2003	120	NOTICE OF MOTION by S.E.C. for an order pursuant to Rule 55(b) of the FRCP, for default judgment against Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. . Return Date not indicated. (moc) (Entered: 10/20/2003)
10/16/2003	121	MEMORANDUM OF LAW by S.E.C. in support of [120-1] motion for an order pursuant to Rule 55(b) of the FRCP, for default judgment against Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. (moc) (Entered: 10/20/2003)
10/16/2003	122	DECLARATION of Charles D. Stodghill by S.E.C. in support Re: [120-1] motion for an order pursuant to Rule 55(b) of the FRCP, for default judgment against Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. (moc) (Entered: 10/20/2003)
11/10/2003	123	REPLY MEMORANDUM by S.E.C. re: [120-1] motion for an order pursuant to Rule 55(b) of the FRCP, for default judgment against Jacobus J. Lam, Westcliff Partners, Potenza Investments, Quintillon B.V. . (cd) (Entered: 11/14/2003)
12/01/2003	124	RESPONSE to Motion re: 120 Motion for Default Judgment. Document filed by Jacobus J. Lam, Potenza Investments, Inc., Quintillon B.V., Westcliff Partners, Inc.. (cd, ) (Entered: 12/10/2003)
12/05/2003	125	ENDORSED LETTER addressed to Judge Laura T. Swain from Charles D. Stodghill dated 12/2/03 ; The Final Pretrial Conference is adjourned to 3/5/2004 at 04:00 PM before Judge Laura Taylor Swain. (Signed by Judge Laura Taylor Swain on 12/4/03) "Copies Faxed By Chambers".(sac, ) (Entered: 12/18/2003)
01/13/2004	126	REPLY MEMORANDUM OF LAW in Support of Plaintiff's Motion for entry of final judgment by default as to defendant Constantine Spyropoulos re: 114 Motion for Default Judgment. Document filed by Securities and Exchange Commission. (Received by Fed-Ex on 1/13/04.)(tr, ) (Entered: 01/14/2004)
01/15/2004	128	Consent of John R. Rooney. Document filed by John R. Rooney. (kw, ) (Entered: 01/16/2004)

01/15/2004	129	STIPULATION AND ORDER, the claims of Plaintiff Securities and Exchange Commission ("SEC") against Defendants Patrick G. Rooney and Rooney Trading, Inc. (collectively referred to herein as "P.G. Rooney" or Defendants") shall hereby be dismissed with prejudice, with these parties to bear their own costs, disbursements, attorneys' fees, and expenses. P.G. Rooney hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to pursue reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendants to defend this action. Defendants agree that Defendants are not the prevailing parties in this action since the parties have reached a good faith settlement. The settlement fully and finally resolves all matters based upon or related to the allegations contained in the Complaint regarding Defendants Patrick G. Rooney and Rooney Trading, Inc. (Signed by Judge Laura Taylor Swain on 1/14/04) Copies Mailed By Chambers.(dfe, ) (Entered: 01/27/2004)
01/16/2004	127	CONSENT JUDGMENT as to John R. Rooney permanently restraining and enjoining defendant from violating SEC regulations and directing defendant to pay a civil penalty of \$102,950. (Signed by Judge Laura Taylor Swain on 1/14/04) (ml, ) (Entered: 01/16/2004)
02/03/2004	130	ENDORSED LETTER addressed to Judge Swain from Charles D. Stodghill dated 1/30/2004 re: Adjournment of conference scheduled for 3/5/2004. The application is granted. The next pretrial conference will be held on 5/4/2004 at 11:00am. (Signed by Judge Laura Taylor Swain on 2/2/2004) copies faxed by chambers.(jsa, ) (Entered: 02/09/2004)
02/03/2004		Set/Reset Hearings: Pretrial Conference set for 5/4/2004 11:00 AM before Judge Laura Taylor Swain. (jsa, ) (Entered: 02/09/2004)
04/12/2004	131	ENDORSED LETTER addressed to Judge Laura T. Swain from Charles Stodghill dated 4/7/04 re: Counsel for plaintiff requests that the court adjourn the final pretrial conference for an additional 45 days. Teh conference is adjourned to 6/29/04 at 10:00 a.m.. (Signed by Judge Laura Taylor Swain on 4/8/04) Copies faxed by chambers.(dle, ) (Entered: 04/13/2004)
06/16/2004	132	Letter addressed to Judge Swain from Jac Lam et al dated 11/13/03; re plntf's letter of 11/7/03. Document filed by Jacobus J. Lam, Potenza Investments, Inc., Quintillon B.V., Westcliff Partners, Inc..(cd, ) (Entered: 06/18/2004)
06/28/2004	133	ENDORSED LETTER addressed to Juidge Swain from Lawrence M. Rolnick dated 06/25/04 re: counsel requests that final pretrial conference in this matter be adjourned until 07/29/04; The court having reosolved the default judgment mtoions by opinion and order issued this day, the parties shall appear as scheduled on June 29, 2004 at 10:00 a.m. to discuss further scheduling. (Signed by Judge Laura Taylor Swain on 06/28/04) copies faxed by Chambers.(djc, ) (Entered: 06/29/2004)
06/28/2004	134	ENDORSED LETTER addressed to Judge Swain from Charles Stodghill dated 6/18/04: granting request that in lieu of filing a final joint pretrial statement in advance of the conference, the parties are to exchange their proposed exhibits and witness lists. (Signed by Judge Laura Taylor Swain on

		6/25/04) copies sent by chambers.(cd, ) (Entered: 06/29/2004)
06/28/2004	135	MEMORANDUM AND OPINION # 90273; for the reasons set forth on this Opinion, the SEC's default judgment motions as to Spyropoulos and the Lam defts are granted. Said defts are permanently enjoined and restrained as further set forth on this Order. The Court grants said defts 45 days from the date of this Opinion to file and serve any further opposition to the SEC's claims for disgorgement, interest and monetary penalties. (Signed by Judge Laura Taylor Swain on 6/28/2004) (jp, ) (Entered: 06/29/2004)
06/28/2004	136	ORDER AND INJUNCTION for the reasons set forth in the Opinion entered by the Court on this date, Plaintiff's motions for judgment by default are granted to the extent they seek injunctive relief. (Signed by Judge Laura Taylor Swain on 6/28/04) (jco, ) (Entered: 07/01/2004)
06/29/2004		Minute Entry for proceedings held before Judge Laura Taylor Swain : Interim Pretrial Conference on 6/29/2004- adjourned to 10/29/04 at 2:00 p.m. Trial scheduled for 11/8/04; (djc, ) (Entered: 07/08/2004)
07/30/2004	137	CERTIFICATE OF SERVICE re Opinion DATED 7/28/04. Document filed by Securities and Exchange Commission. (cd, ) (Entered: 08/04/2004)
07/30/2004	138	CERTIFICATE OF SERVICE re 6/25/04 endorsed letter. Document filed by Securities and Exchange Commission. (cd, ) (Entered: 08/04/2004)
08/17/2004	139	ORDER The Clerk of Court will serve copies of this order on Lam and on the SEC. Chambers will also provide Lam with a complete copy of the 6/28/04. Opinion, and regrets the omission of page 14 from the copy earlier sent to Lam. (Signed by Judge Laura Taylor Swain on 8/16/04) "Copies Mailed By Chambers"(jco, ) (Entered: 08/19/2004)
10/21/2004	140	ENDORSED LETTER addressed to Judge Swain from Charles D. Stodghill dated 10/18/2004 re: The final pretrial conference is adjourned to 12/2/2004 at 3:00pm. So ordered (Signed by Judge Laura Taylor Swain on 10/21/2004) copies faxed by chambers.(jsa, ) (Entered: 10/25/2004)
10/21/2004		Set/Reset Hearings: Final Pretrial Conference set for 12/2/2004 03:00 PM before Judge Laura Taylor Swain. (jsa, ) (Entered: 10/25/2004)
11/30/2004	141	ENDORSED LETTER addressed to Judge Swain from Charles D. Stodghill dated 11/24/04 re: request for a further adjournment of the final pretrial conference.The request is granted. The Final Pretrial Conference is adjourned to 2/10/2005 at 04:30 PM (Signed by Judge Laura Taylor Swain on 11/29/04) Copies faxed by Chambers.(yv, ) (Entered: 12/02/2004)
02/01/2005	142	ENDORSED LETTER addressed to Judge Laura Taylor Swain from Charles D. Stodghill dated 1/28/05; re: Pretrial Conference set for 4/22/2005 at 12:00 PM before Judge Laura Taylor Swain. (Signed by Judge Laura Taylor Swain on 1/31/05) (sac, ) (Entered: 02/07/2005)
02/08/2005	143	CONSENT JUDGMENT # 05,0214 in favor of SEC against Adrian A. Alexander in the amount of \$ 2.00. (Signed by Judge Laura Taylor Swain on 2/7/05) (ml, ) (Entered: 02/08/2005)

02/08/2005	144	STIPULATION AND ORDER OF DISMISSAL of action as against deft Susi Belli with prejudice and without costs. (Signed by Judge Laura Taylor Swain on 2/2/2005) (jp, ) (Entered: 02/10/2005)
03/02/2005		Mailed notice of Right to Appeal re: 143 Consent Judgment and to Attorney(s) of Record: Robert B. Blackburn, John B. Bulgozdy, C. Joshua Felker, Walker G. Harman, Jr, Thomas C. Newkirk, William Coudert Rand, Lawrence M. Rolnick, Erich T. Schwartz, Constantine Spyropoulos, Charles D. Stodghill, Ashley C. Wall. (lma, ) (Entered: 03/07/2005)
04/20/2005	147	CONSENT of Defendant David V. Stratman. Acknowledges having been served with the complaint in this action, enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action. Document filed by David V. Stratman.(mde, ) (Entered: 04/26/2005)
04/25/2005	145	JUDGMENT #05,0742 in favor of SEC against Stratman in the amount of \$ 50,000.00 and enjoining Stratman. (Signed by Judge Laura Taylor Swain on 4/19/05) (ml, ) (Entered: 04/25/2005)
04/25/2005	146	JUDGMENT #05,0741 in favor of SEC against Constantine Spyropoulos, Jacobus J. Lam, Potenza Investments, Inc., Westcliff Partners, Inc., and Quintillion, B.V. in the amount of \$ 198,705.46. (Signed by Judge Laura Taylor Swain on 4/21/05) (ml, ) (Entered: 04/25/2005)
04/27/2005		Mailed notice of Right to Appeal re: 145 Judgment and to Attorney(s) of Record: Robert B. Blackburn, John B. Bulgozdy, C. Joshua Felker, Walker G. Harman, Jr, Thomas C. Newkirk, William Coudert Rand, Lawrence M. Rolnick, Erich T. Schwartz, Constantine Spyropoulos, Charles Derrick Stodghill, Ashley C. Wall. (lma, ) (Entered: 04/27/2005)
04/27/2005		Mailed notice of Right to Appeal re: 146 Judgment and to Attorney(s) of Record: Robert B. Blackburn, John B. Bulgozdy, C. Joshua Felker, Walker G. Harman, Jr, Thomas C. Newkirk, William Coudert Rand, Lawrence M. Rolnick, Erich T. Schwartz, Constantine Spyropoulos, Charles Derrick Stodghill, Ashley C. Wall. (lma, ) (Entered: 04/27/2005)
05/04/2005		Received returned mail re: 145 Judgment. Mail was addressed to William C. Rand of Law Office of William C. Rand at 19 West 44th Street, Suite #35, New York, NY 10036 and was returned for the following reason(s): not deliverable as addressed. (tve, ) (Entered: 05/31/2005)
07/05/2005		CASHIERS OFFICE CRIS DEPOSIT dated 4/25/05, from Judge Laura Taylor Swain, \$50,000.00 deposited on 7/1/05, Receipt Number 547830 and placed into CRIS on 7/6/05. (dig, ) (Entered: 07/05/2005)
07/26/2005		CASHIERS OFFICE CRIS DEPOSIT dated 2/7/05, from Judge Laura Taylor Swain, \$2.00 deposited on 3/1/05, Receipt Number 536279 and placed into CRIS on 7/27/05. (dig, ) (Entered: 07/26/2005)
11/30/2005	148	MINUTE ORDER PURSUANT TO MEMORANDUM FROM THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS, DATED JUNE 15TH, 1973....Case Closed administratively pursuant to Memorandum from

		the Administrative Office of the United States Courts dated June 15th, 1973... (Signed by Judge Michael B. Mukasey on 11/30/05) (kco, ) (Entered: 12/01/2005)
12/16/2005	149	MOTION for the Appointment of an Agent to Distribute Investor Funds and Memorandum in Support. Document filed by Securities and Exchange Commission. (db, ) (Entered: 12/19/2005)
12/28/2005	150	ORDER APPOINTING DISTRIBUTION AGENT; that David R. Kittay, Esq., of the firm of Kittay & Gershfeld, P.C. is appointed as Distribution Agent in this matter to effectuate the distribution of certain funds currently held in the Court's Registry, with the particular powers and duties set forth in this document. (Signed by Judge Laura Taylor Swain on 12/23/05) Copies Mailed by Chambers(sac, ) (Entered: 12/28/2005)

<b>PACER Service Center</b>			
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05/13/2014 12:45:18			
<b>PACER Login:</b>	se3499	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:00-cv-07290-LTS
<b>Billable Pages:</b>	16	<b>Cost:</b>	1.60

# **EXHIBIT D**



## U.S. Securities and Exchange Commission

### U.S. Securities & Exchange Commission

**LITIGATION Release No. 19100 / February 25, 2005**

**Securities and Exchange Commission v. Adrian A. Alexander  
(formerly known as "Adrian Antoniu"), et al., 00 CV 7290 (LTS)  
(S.D.N.Y.)**

#### **SEC SETTLES INSIDER TRADING ACTION AGAINST ADRIAN A. ALEXANDER; ALEXANDER TO PAY OVER \$400,000**

On February 7, 2005, the U.S. District Court for the Southern District of New York entered a final judgment by consent against Adrian A. Alexander in connection with insider trading in the securities of U.S. Shoe Corporation. The Commission's Complaint, which was filed in September 2000, alleges that eleven individuals and four entities engaged in insider trading in the securities of U.S. Shoe Corp. and Luxottica S.p.A. before the March 3, 1995 public announcement that Luxottica was commencing a hostile tender offer for U.S. Shoe. The Complaint alleges that Adrian Alexander obtained information about Luxottica's secret plans to launch a tender offer for U.S. Shoe from Susi Belli, the Manager of Investor and Public Relations for Luxottica, who was then Alexander's girlfriend and is now his wife. According to the Complaint, Alexander tipped others, including his then business partner Patrick J. Rooney, former Chairman of Rooney Pace & Co., Inc., and Constantine Spyropoulos.

Without admitting or denying the Commission's allegations, Alexander consented to a final judgment: (1) permanently enjoining him from violating Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder; (2) ordering him to pay a two-time civil penalty of \$420,195 pursuant to Section 21A of the Exchange Act; and (3) ordering him to pay \$2.00 in disgorgement. The nominal disgorgement allows the Commission to deposit the civil penalty into a distribution fund under Section 308(a) of the Sarbanes-Oxley Act. In addition, the court approved the parties' stipulation dismissing Belli, who did not trade in U.S. Shoe securities, from this action.

Earlier in this case, on June 13, 2003, Pavel Hillel consented to the entry of a final judgment: (1) permanently enjoining him from violating Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder; (2) ordering him to pay a civil penalty of \$6,375; and (3) ordering him to pay disgorgement of \$6,375 plus prejudgment interest of \$5,434.83. Defendants Patrick G. Rooney, Rooney Trading, Inc., Gianna Toffoli, and Penelope Afouxenide were earlier dismissed as defendants in this action. Default judgments have been entered as to defendants Constantine Spyropoulos, Jacobus J. Lam, Westcliff Partners, Inc., Potenza Investments, Inc., and Quintillion B.V. The case is still pending as to David V. Stratman.

For additional information, see [Litigation Release No. 16733](#)

<http://www.sec.gov/litigation/litreleases/lr19100.htm>

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Modified: 02/25/2005

# **EXHIBIT E**

**United States District Court, Northern District of Illinois**

<b>Name of Assigned Judge or Magistrate Judge</b>	Charles P. Kocoras	<b>Sitting Judge if Other than Assigned Judge</b>	
<b>CASE NUMBER</b>	11 C 8264	<b>DATE</b>	May 16, 2013
<b>CASE TITLE</b>	SEC vs. Rooney et al		

**DOCKET ENTRY TEXT**

Ruling held on 5/16/2013. Defendant's motion (Doc [40]) for partial judgment on the pleadings is denied.

■ [ For further details see text below.]

Docketing to mail notices.

00:10

**ORDER**

This matter comes before the Court on the motion of Defendant Patrick Rooney ("Rooney") for partial judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). For the reasons set forth below, Rooney's motion is denied.

Plaintiff Securities and Exchange Commission ("SEC") filed an eight count complaint on November 18, 2011 alleging multiple securities violations. The SEC alleges that Rooney, acting as the sole owner and manager of Codefendant Solaris Management, LLC ("Solaris Management"), made numerous undisclosed investments in Positron Corp. ("Positron"), a company in which he had a vested interest. Rooney served as the chairman of the board of Positron beginning in June 2004. He also managed the Solaris Opportunity Fund, LP (the "Solaris Fund"), a hedge fund which was overseen by Solaris Management. The Solaris Fund made multiple large investments in Positron, which was against the Solaris Fund's diversification strategy.

By November 2008, the Solaris Fund owned sixty percent of Positron's shares, and this ownership constituted all of the monies in the Solaris Fund. Furthermore, the Solaris Fund made several loans to Positron from 2005 through 2008 at an interest rate of zero percent. Rooney did not inform the Solaris Fund's investors of his position with Positron until March 24, 2009, via newsletter. When Rooney informed the investors, he claimed that he was "now" the chairman of Positron. However, Rooney had been the chairman for nearly five years, and he became the chairman prior to the Solaris Fund's having first invested in Positron in 2005. Rooney's inclination to become the chairman of Positron did not occur as a result of any desire to benefit the Solaris Fund.

## ORDER

Pursuant to the complaint, the SEC has sought an officer and director bar (“O&D bar”) that would prohibit Rooney from serving as an officer and director of a public company. On March 11, 2013, Rooney filed a motion for partial judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) in which he asks this Court to hold, as a matter of law, that an O&D bar is an inappropriate sanction for him.

A party may request judgment on the pleadings once the pleading period has closed. Fed. R. Civ. P. 12(c). In ruling on a Rule 12(c) motion, the court only considers the pleadings, which include the complaint, the answer, and any written instruments attached as exhibits. *Hous. Auth. Risk Retention Grp., Inc. v. Chi. Hous. Auth.*, 378 F.3d 596, 600 (7th Cir. 2004). The court accepts the well-pleaded allegations in the complaint as true. *Thomas v. Guardsmark, Inc.*, 381 F.3d 701, 704 (7th Cir. 2004). A Rule 12(c) motion is analyzed under the same standard as a Rule 12(b)(6) motion to dismiss. *Guise v. BWM Mortg., LLC*, 377 F.3d 795, 798 (7th Cir. 2004).

A Rule 12(b)(6) motion to dismiss tests the legal sufficiency of the complaint. *Szabo v. Bridgeport Machs., Inc.*, 249 F.3d 672, 675 (7th Cir. 2001). The allegations in a complaint must set forth a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). A plaintiff need not provide detailed factual allegations and must merely provide enough factual support to raise his right to relief above a speculative level. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A claim must be facially plausible, meaning that the pleadings must allow the court to draw the reasonable inference that the defendant is liable for the purported misconduct. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements,” are insufficient to withstand a motion to dismiss under Rule 12(b)(6). *Id.* at 678.

Rooney contends that this Court should enter judgment rejecting the O&D bar at this time because: (i) this remedy is barred by the five year statute of limitations contained in 28 U.S.C. § 2462; and (ii) the facts pleaded in this case do not meet the six-factor test which many federal courts have used to determine whether an O&D bar is appropriate. With respect to the statute of limitations issue, Rooney argues that, since the SEC interviewed him on August 8, 2006, at which time he discussed some of his investments in Positron on behalf of the Solaris Fund, the SEC was on notice of his activity, thus rendering the November 18, 2011 complaint time-barred. The SEC counters that: (i) the complaint alleges misconduct in 2007, 2008 and 2009, dates within the five year limitations period; and (ii) the statute of limitations in Section 2462 does not apply to the O&D bar which, the SEC asserts, is an equitable remedy. As the Court concurs with the SEC’s first argument, the alternative averment warrants no discussion.

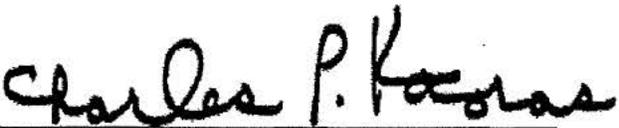
The complaint alleges that in 2007 and 2008, Rooney significantly increased the Solaris Fund’s investment in Positron. By November 2008, the Solaris Fund owned sixty percent of Positron’s shares. Rooney failed to file the proper notification with the SEC once the Solaris Fund became a majority shareholder in Positron. This escalation in the investment in Positron had not yet occurred at the time of Rooney’s August 8, 2006 interview with the SEC. Neither had the false and misleading statements that Rooney sent to Solaris Fund investors on March 24, 2009. While Rooney contends that he viewed the SEC as having given him the “all clear” to proceed with his activities based on the SEC’s March 9, 2009 letter, letter did not address the escalation of Rooney’s investments in Positron with Solaris Fund investor monies from 2007 through November 2008. The Court thus deems it inappropriate to apply the five year statute of limitations to the instant case given the conduct that clearly occurred within the limitations period.

**ORDER**

Rooney argues in the alternative that his conduct does not warrant the implementation of an O&D bar because the conduct falls short in the above-referenced six-factor test. The six factors include: (i) the defendant's repeat offender's status; (ii) the likelihood that misconduct will recur; (iii) the defendant's role or position when he engaged in the fraud; (iv) the defendant's degree of scienter; (v) the defendant's economic stake in the violation; and (vi) the egregiousness of the underlying violation. *SEC v. Black*, No. 04 C 7377, 2008 U.S. Dist. LEXIS 75812, at \*70-71 (N.D. Ill. Sept. 24, 2008). Some of these factors clearly require more discovery than what has transpired in the instant case, where fact discovery is not complete and expert discovery has yet to begin. The Court cannot determine, for instance, the likelihood of future misconduct. Rooney assures the Court that he has no intention of managing another fund like the Solaris Fund, but the SEC disagrees, and the Court declines to arbitrate that dispute at this time. Also, the issue of the degree of scienter requires further exploration. Rooney has pointed to no case where the request for an O&D bar has been dismissed at this stage of the litigation, and the Court can find none.

For the foregoing reasons, Rooney's motion for partial judgment on the pleadings is denied.

Date: May 16, 2013

  
CHARLES P. KOCORAS  
U.S. District Judge